

LAW<sup>S</sup>  
OF  
LOCAL NATURE

PASSED AND PUBLISHED AT THE TWENTY-FOURTH SESSION

OF THE

GENERAL ASSEMBLY  
OF THE STATE OF INDIANA.

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HELD AT INDIANAPOLIS, ON THE FIRST MONDAY IN DECEMBER, ONE THOUSAND  
EIGHT HUNDRED AND THIRTY-NINE.

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BY AUTHORITY.

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1840.

# L A W S

OF A

## LOCAL NATURE.

### CHAPTER I.

An Act to incorporate the Deerfield, Albany, and Marion Turnpike Company.

[APPROVED, FEBRUARY 17, 1840.]

SEC. 1: *Be it enacted by the General Assembly of the State of Indiana,* That William Hopkins, Edward Edgar, Daniel B. Miller, James Taylor, Charles Sumption, John L. Adington, Robert Stephen, George Ridenouer, Caleb Odle, and Sylvester Miller of Randolph county, and their associates be and they are hereby created a body politic and corporate for the purpose of constructing a turnpike road from the state line of Ohio, where the Urbanna, Troy, and Greenville turnpike road intersects the state line, to run from thence the most direct route to Deerfield, thence down the valley of the Mississinewa river, to Albany, and thence to Marion in Grant county, by the name and style of the Deerfield, Albany, and Marion Turnpike Company, and by that name they and their successors shall have perpetual succession, and all the privileges and immunities incident to a corporation, and may take, purchase and hold to them and their successors in fee simple or for any less estate, any lands, tenements or hereditaments, and also any personal estates which may be necessary for the efficient prosecution of the object contemplated by this act; and shall be capable, by their corporate name aforesaid, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all courts of competent jurisdiction, and shall have and use a common seal, and the same break, change, or renew at pleasure: *Provided,* That the stock, funds, and property of said company shall be applied to no other use or purposes than is provided for by this act.

SEC. 2. So soon as said company shall have duly organized themselves by written articles recognizing this act, they may proceed to open books for subscription to the capital stock of said company, at Deerfield and such other places as they may deem proper to receive

subscriptions to the stock of said company in shares of twenty-five dollars each; which books shall be opened at such time and under such regulations as shall be directed by the persons named in the first section of this act or a majority of them.

SEC. 3. Whenever two hundred shares of stock of said company shall have been subscribed, it shall be the duty of the persons named in the first section of this act, or a majority of them, to call a meeting of the stockholders, by giving notice thereof, in some public newspaper printed in Randolph county, if there be any such, for at least thirty days prior to the meeting, and if there be no newspaper printed in said county, said notice shall be given by posting up written advertisements in at least six of the most public places along the route of said road; the stockholders when so convened shall proceed to elect seven directors for said company, at which election at least three of the persons named in the first section of this act shall preside, all votes for directors shall be by ballot; each stockholder shall be entitled to one vote for each share he may own, not exceeding ten, and for every two shares above ten and not exceeding twenty one votes, and for every three shares above twenty, one vote; and the directors thus elected shall hold their offices until their successors shall be elected; and shall immediately proceed to elect from their own body, a president, whose duty it shall be to sign all obligations or contracts on behalf of the company, and who shall hold his office until his successor shall be elected and qualified: *Provided*, That no person shall be elected a director who is not a stockholder.

SEC. 4. After the first election, all subsequent elections shall be held at Deerfield on the first Monday of January in each and every year; and the directors thus elected shall hold their offices one year and until their successors shall be elected and qualified, and shall in like manner proceed to choose a president from their own body, who shall hold his office until his successor be elected: *Provided*, that if the election for directors shall not be held at the time prescribed in this section, the company shall not be dissolved, but it shall and may be lawful to hold an election at any other time, notice thereof being given as is prescribed by the third section of this act: *And provided also*, that the directors may appoint some place other than Deerfield to hold any election for directors, but in such case they shall give notice as required above.

SEC. 5. The president and directors shall in all cases manage the concerns of said company, appoint such officers and agents as may be necessary, to fill all vacancies that may happen in their own body, until the next annual election, to make such by-laws, rules and regulations for the government of said company as they may deem expedient, provided that the same be not inconsistent with the constitution and laws of this state or of the United States; they may require an oath or affirmation of any of the agents of said company; may call special meetings of the stockholders, always giving at least twenty days notice of such meeting as before mentioned; they shall keep a record of all their proceedings relative to the business of the company,

which shall at all times be open to the inspection of any person interested.

SEC. 6. If any stockholder shall neglect or refuse to pay any instalment on his stock after sixty days notice of the time and place of making payment, it shall be the duty of the directors to collect the deficient instalment by action of debt, with interest and cost.

SEC. 7. The said company shall have a right to lay out, survey, and construct a turnpike road from the state line at the intersection of the Urbanna, Troy, and Greenville turnpike road in Ohio, and thence down the valley of the Mississinewa, and take from the lands occupied by said road, when located and surveyed as aforesaid, any stone, gravel, timber, or other materials necessary to construct a good, secure and substantial road as contemplated by this act; and in case sufficient material cannot be procured on the land as aforesaid, occupied by said road, said company or their agents shall have a right to enter upon any unimproved land adjoining or in the vicinity of said road, and dig, cut down, and carry away so much stone, gravel, timber, or other materials as may be necessary to enable said company to construct said road and the necessary bridges; and if any difference should arise between the owner or owners of such ground from which such materials are taken, it shall be determined by three disinterested freeholders to be appointed by the board doing county business who, after being duly sworn faithfully and impartially to perform the duties required of them by this act, and taking into consideration whether the land has been rendered more or less valuable by the road passing through or near it, shall make out their assessment of damages, if any, in writing, a copy of which shall be given to the proprietor of the land, and another copy to the agent of the company; and said agent shall pay or offer to pay the owner of said land the amount of such assessment, before he shall enter upon and take any such ground or materials, other than to survey such road; and all expense of such assessment of damage, if any, shall be awarded by the company, but if no damage shall be awarded, then the expense shall be paid by the person who claimed damages.

SEC. 8. The president and directors of said company shall cause said road to be opened not exceeding eighty feet wide, of which at least twenty-four feet shall be made an artificial road composed of stone, gravel, wood, or other materials well compacted together, in such manner as to secure a firm, substantial, and even road, rising in the middle with a gradual arch or curve, with sufficient drains on each side of the road to convey the water therefrom; and shall maintain and keep the same in good repair, and in no case shall the ascent in the road be greater elevation than four degrees with the horizon.

SEC. 9. So soon as said company shall have completed the road, as aforesaid, or ten miles of said road shall be completed, an agent to be appointed for that purpose by the board doing county business in the county wherein the road to be examined may be, shall on application of the company examine the same and report his opinion in writing to the president of the company, and if said report shall state

the road or any ten continuous miles thereof to be completed agreeably to the provisions of this act, the said company may then erect a gate or gates at suitable distances, and demand and receive of persons travelling said road, the following rates of toll for each and every ten miles of said road, and in the same proportion for a greater or less distance, to-wit: For every four wheeled carriage or wagon, drawn by one horse, mule or ox, eighteen and three-fourth cents, for every horse, mule or ox in addition, six and a fourth cents; for every car, riding chair, cart or other two wheeled carriage of any kind, drawn by one horse, mule or ox, twelve and a half cents; for every horse, mule or ox in addition, six and a fourth cents; for every sled or sleigh, drawn by one horse, mule or ox, twelve and a half cents; for every additional horse, mule or ox, six and a fourth cents; for every coach, carriage or other four wheeled carriage, drawn by one horse, twenty-five cents, (including the driver;) for every additional horse six and a fourth cents; for every horse and rider, six and a fourth cents; for every horse, mule, ass, or head of neat cattle, six months old or upwards led or drawn, three cents; for every head of sheep or hogs, one cent: *Provided*, That all militia men going to and returning from their respective musters shall pass said road free of toll.

**SEC. 10.** If any person or persons using said road, shall, with intent to defraud said company, or to avoid the payment of tolls, pass any private gate or bars or any other ground except around causways authorized by law near to any turnpike gate which shall be erected by authority of this act, to prevent or evade or lessen the tolls, each and every person concerned in such fraudulent practice shall for every such offence forfeit and pay to the company the sum of five dollars, without stay of execution, to be recovered with costs of suit in an action of debt, at the suit of said company before any justice of the peace in any county having jurisdiction of the same.

**SEC. 11.** If the said company shall, for ten days in succession, fail to keep said road in good repair, and complaint thereof be made to any justice of the peace in the county in which said road is out of repair, it shall be his duty forthwith to summon three disinterested freeholders to examine the same; and he shall give notice to the toll gatherer at the nearest gate, of the time when the said freeholders will proceed to examine the same, and if the said road is out of repair they shall certify it to the justice, who shall immediately transmit a copy of such certificate to the nearest toll gatherer, where such defective part of said road lies, and from the time of receiving such notice, no toll shall be demanded or received for such part of the road, until the same shall be put in complete repair, under penalty of five dollars for every such offence, to be recovered in an action of debt with cost from said company, on the complaint and for the use of the party so aggrieved.

**SEC. 12.** Said company shall put up a post or stone at the end of each mile, with the number of miles from the state line fairly cut or painted thereon, and also in a conspicuous place at or near each gate

they shall put up a board with the rates of toll fairly painted thereon, and directions to keep to the right.

**SEC. 13.** There shall be kept a fair account of the whole expenses of making and repairing said road with all other incidental expenses, and also a fair account of tolls received, and the state shall have the right to purchase the same or any portion of the stock thereof, on paying said company a sum of money, which together with the tolls received shall equal the cost and expenses of said road, with interest thereon at the rate of ten per cent. per annum; and the books of the company shall always be open for the inspection of the agent of the state appointed for that purpose by the legislature; and if the said company shall neglect or refuse to exhibit their accounts agreeably to this section, when thereunto required, then all the rights and privileges granted by this act shall cease.

**SEC. 14.** If said company shall not, within five years from the passage of this act, commence the construction of said road according to the true intent and meaning of this act, then it shall be lawful for the legislature to resume all the rights and privileges granted by this act.

**SEC. 15.** Said company shall be and they are hereby authorized and empowered to demand and receive the same toll, and to proceed in the same manner to collect the same from the driver, owner or owners of any stage, carriage, sleigh or horse in or on which shall be conveyed the mail of the United States, as they have by this act a right to do from the drivers or owners of similar carriages, &c., to those in or on which the mail is not carried, any law to the contrary notwithstanding: *Provided*, That nothing herein contained shall be so construed as to empower said company to stop or detain any carriage, sleigh or horse while actually carrying the mail.

**SEC. 16.** Said company shall cause to be built good and sufficient bridges over any public works of this state wherever said road may cross the same.

**SEC. 17.** It shall be lawful for said company either before or after the location of any section of said road, to obtain from the person or persons through whose lands the same may pass, a relinquishment of so much of said land as may be necessary for the construction and location of said road, as also the stone, gravel, timber or other materials that may be obtained on said route, and may contract for such materials as may be obtained on any other land near thereto; and it shall be lawful for said corporation to receive by donation, gift, grant or bequest, land, money, labor, stone, gravel or other materials for the benefit of said company, and all such gifts, grants, donations, relinquishments or bequests, made and entered into in writing by any person or persons capable in law to contract, made in consideration of such location and for the benefit of the corporation shall be binding and obligatory; and the said company may have their action at law or equity in any court having competent jurisdiction to compel the observance of the same: *Provided*, That all such contracts, donations and relinquish-

ments shall be fully and plainly made in writing and signed by the party making the same.

SEC. 18. Each and every stockholder shall be liable in his personal capacity for the debts of said company, in proportion to the amount of stock held by him, her or them at the time of the creation of said debt.

SEC. 19. The privileges granted by this act to said company and this act itself shall cease and expire at the end of twenty years from its passage, any thing hereinbefore contained to the contrary notwithstanding: *Provided however,* That the legislature may at any time, alter, amend or repeal this charter.

## CHAPTER II.

An act to incorporate the Wabash Rangers.

[APPROVED FEBRUARY 22, 1840.]

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That Richard Owen, Aaron Robb, William Owen and Samuel Carr, and their associates and successors be, and they are hereby constituted and declared to be a body corporate, by the name and style of "Wabash Rangers," and by that name shall have perpetual succession with full power to contract and be contracted with, to sue and be sued, plead and be impleaded in any court of law or equity; to make, have and use a common seal, and the same to alter at pleasure; they shall have full power to elect their own officers, under such rules and regulations as shall be prescribed by their by-laws; to make, ordain, establish and enforce such by-laws, rules and ordinances, not inconsistent with the constitution and laws of the United States or of this state, as they shall deem necessary for the welfare of said company, and to do and perform all other acts in pursuance thereof, necessary for the prosperity and good government of said company.

SEC. 2. The officers of said company shall be a captain, two lieutenants and one cornet, who shall be commissioned by the governor of the state, and all resignations shall be made to the governor, who shall be at liberty to accept or refuse such resignation as he may think the interest of said company may require.

SEC. 3. The non-commissioned officers of said company shall be elected by the members of the company, and shall hold their offices during good behavior, and it is hereby made the duty of the commandant of said company to issue warrants to the non-commissioned officers with the corporate seal of said company thereto affixed, attested by

the secretary, which warrant shall be sufficient authority for any non-commissioned officer, to do and perform any act that may be lawfully enjoined on him by his superior officers.

SEC. 4. It shall be the duty of the commandant to call said company out for parade and military improvement, at least six times in each year, and officer if the company shall so direct by their by-laws.

SEC. 5. The discipline of said company shall conform as near as practicable to that of the United States army.

SEC. 6. It shall be the duty of the commandant of said company annually, on or before the first Monday in May, to appoint a company court martial, to consist of a president and two members, whose duty it shall be to convene at least once in each year at such time and place as the commandant shall direct, and officer if the by-laws of said company shall require it. It shall be the duty of the president of said court martial when convened, to administer to the members the following oath: You do solemnly swear that you will support the constitution of the United States, the constitution of the State of Indiana, and that you will faithfully and impartially discharge the duties of a member of the present court martial, according to the best of your abilities, so help you God. And after the members are sworn, it shall be the duty of one of them in like manner to swear the president, who when so sworn, shall declare the board duly organized.

SEC. 7. It shall be the duty of said court martial to hear and determine the sufficiency of any excuse that may be rendered by any officer, non-commissioned officer, musician or private for non attendance at any parade, muster or drill-call pursuant to the provisions of this act, or of any of the by-laws of said company, or for any deficiency in uniform, accoutrements or equipments, and assess such fine or fines as are authorised to be assessed by this act or of any by-law made conformable thereto.

SEC. 8. Should a vacancy occur in the company court martial, the commandant of said company for the time being, is hereby authorised and required to fill the same.

SEC. 9. The following fines shall be imposed for non-attendance at any parade or muster: First; on a commissioned officer, not less than two nor more than ten dollars; on a non-commissioned officer, not less than one nor more than five dollars; on musicians and privates, not less than fifty cents nor more than two dollars; for deficiency in uniform, accoutrements or equipments, not less than twenty-five cents nor more than two dollars for each article deficient, unless excused for the time being, by the commandant of said company.

SEC. 10. A majority of said company may expel a member for disorderly or ungentlemanly conduct while on parade. It shall also be the duty of the commandant of said company to return to the company court martial every commissioned and non-commissioned officer, musician or private, for disobedience of orders, or for any conduct derogatory of a soldier while on parade, who shall be fined, if adjudged guilty by said court martial, in any sum not less than five nor more than twenty-five dollars.

**SEC. 11.** All fines collected by said company shall be for the exclusive use and benefit of the same.

**SEC. 12.** All fines assessed by said court martial may be sued for and recovered in an action of debt before any justice of the peace or other court having jurisdiction thereof, and on the trial of any such cause, the record of the proceedings of said court martial duly signed by the president of the board, or a copy thereof duly certified under the hand of the secretary of said company, with the company seal thereto affixed, shall be conclusive evidence that the fine for the recovery of which said action was brought, was legally assessed.

**SEC. 13.** All persons who shall serve for the full term of ten years as a member of said company from and after their enrollment, shall thereafter be exempt from all militia duty in this state, except called on in case of insurrection or invasion or war.

**SEC. 14.** Said company shall be subject to the civil power, and ready whenever called on by the same to turn out for the purpose of aiding in quelling and suppressing all riots and insurrections which may happen within the county of Posey.

**SEC. 15.** That after the organization of said company, and so long as the same shall remain in active operation, the persons composing the said company shall not be required to perform any other militia duty in time of peace, any law to the contrary notwithstanding.

**SEC. 16.** This act shall be in force from and after its passage: *Provided however,* That the legislature reserves the right to alter, amend or repeal this charter at any time.

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#### CHAPTER IV.

An act to incorporate the Lawrenceburgh and Napoleon Turnpike Company.

[APPROVED FEB. 18, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That Abram Ferris, George P. Buell and John P. Dunn of Dearborn county, Samuel Gookins and Miles Mendenhall of Ripley county, and their successors in office, duly elected as herinafter directed, are hereby constituted a body politic and corporate, and by the name and style of the president and directors of the Lawrenceburgh and Napoleon turnpike company, shall be able and capable in law and equity to sue and be sued, plead and be impleaded, answer and be answered unto, in any and all courts whatsoever; to make and use a common seal, and the same to alter or change at pleasure; and shall be able in law, to make contracts, and enforce the necessary by-laws, rules, and regulations to enable them to carry into effect the provisions of this act,

and the objects contemplated by the same not inconsistent with the laws and constitution of this state.

**SEC. 2.** The capital stock of said corporation shall be one hundred thousand dollars, divided into shares of ten dollars each, with power to increase the capital stock, if necessary to accomplish the object herein contemplated.

**SEC. 3.** The directors in this act named, or a majority of them, shall meet at such time and place as they may agree on, and organize said corporation, by electing one of their body president, and after such organization any five of said board shall be a quorum to do business.

**SEC. 4.** The corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other persons and officers necessary to carry into effect this act. They shall keep a journal of their proceedings, in which shall be entered all by-laws and regulations, and all orders for the payment of such allowances as may be made to their officers and all others in their employment; which journal and proceedings shall, from time to time, be signed by the president. They may sit on their own adjournments or on the call of the president; when the president is absent, they may appoint a president pro tempore. They shall fill all vacancies that may happen in their own body.

**SEC. 5.** The corporation shall cause books to be opened for subscription to the capital stock, at such times and at such places as they may choose, due notice of which shall be given in the public newspapers printed and published in the said counties of Dearborn and Ripley; in each of which books, the following entry shall be made: "We the undersigned, promise to pay the sum of ten dollars for each share of stock set opposite our names, in such manner and proportions, and at such times as the president and directors of the Lawrenceburgh and Napoleon turnpike company, may direct, witness our hands this day of \_\_\_\_."

**SEC. 6.** It shall be lawful for all persons of lawful age, for the agent of any corporate body, to subscribe for any amount of the capital stock, and the said corporation may by agent offer for sale, in any other state, any amount of stock, upon such terms and conditions as may be thought advisable, and they shall have power on their own credit, to borrow money upon such terms as may be agreed upon by the parties. The corporation may require such sum of money to be paid at the time of subscribing, not exceeding three dollars on each share, as they may think proper; but the amount required shall be made known, at the notice for opening the books, and any future payments on the stock, shall be under the control of the corporation: *Provided, however,* that each and every person who shall have subscribed and paid in cash, labor, or materials for McAdamizing the river hill, a part of the road in this act mentioned, shall have the right to subscribe and take stock in said company to the value of the amount so paid for the purpose aforesaid.

**SEC. 7.** As soon as one thousand shares are subscribed for and three dollars paid on each share, it shall be the duty of the corporation to give three weeks notice thereof, in the public newspapers, printed and published in the said counties of Dearborn and Ripley; and in such notice appoint a time and place for the stockholders, to meet and elect seven directors, who shall be stockholders, and citizens of this state, and which election shall be by ballot, and conducted under the superintendence of one inspector and two judges appointed by the stockholders present, and the persons having the highest number of votes shall be declared duly elected; in all elections each share, from one to five, shall entitle the holder to one vote, and every additional five shares, one vote only, to be given by the persons owning the same, or by one of any partners, or by the husband, father, mother, administrator or executor, trustee or guardian, or by the agent of any corporation; and any person who may have a right to vote may vote by proxy.

**SEC. 8.** It shall be the duty of the directors, elected as above, and those elected at all subsequent elections, to elect one of their own body to be president. The president and directors thus elected shall continue in office, until the next annual election, and until their successors are elected and qualified.

**SEC. 9.** All elections after the first shall be on the first Monday of January annually, under the direction of the stockholders present, of which election notice shall be given, but should no election be held on the day appointed by this act, or by the directors of the first election, it shall be lawful to hold the election on any other day.

**SEC. 10.** Certificates of stock shall be given to the stockholders, which shall be evidence of the stockholders [stock held;] they shall be signed by the president and countersigned by the clerk. The stock shall be transferred on the books of the corporation only, personally or by agent or attorney or by the administrator, executor, trustee or guardian; but such stock shall be at all times helden by the corporation, for any dues from the holder thereof, to the corporation, or for any sums that may thereafter become due, on a contract made prior to such transfer.

**SEC. 11.** The corporation shall have power to call for such portions of the stock subscribed, not exceeding fifteen per cent. every six months, as they may think proper, to be paid at such time and place as they may designate, by giving sixty days notice thereof, in the newspapers printed and published in the counties of Dearborn and Ripley, or by giving written notice to the stockholders, in which shall be specified the amount demanded on each share, and the time and place of payment; and if any stockholder shall refuse or neglect to pay such requisition within ten days after the time named for such payment, the corporation may bring suit against such delinquent for the amount due and called for, in any court of competent jurisdiction, and recover the amount with interest thereon, at the rate of ten per cent. per annum; and if the amount cannot be made on execution, or if such delinquent is out of the state, then the corporation may, by an order on their books, declare such stock forfeited to the corpora-

tion, with whatever amount may be paid thereon; and no such delinquent before the forfeiture of his stock, shall have the right to vote for directors, or receive any dividend on his, her, or their stock, until the corporation is fully satisfied. The corporation shall require of all officers and others in their employ, bonds, with such security as they may think proper, for the faithful performance of their respective duties.

**SEC. 12.** The corporation shall have power, by themselves or agents, to examine, survey, locate and make a turnpike road from Lawrenceburgh in Dearborn country, to Napoleon in Ripley county, but shall not deviate from the route and line of the present state road, surveyed and laid out between those two points, without first obtaining the consent of the owners or occupants of the lands through which any alteration may be desired to be made, different from the present route; and the said turnpike road shall be sixty six feet in width.

**SEC. 13.** And for the purpose of making such examination and location, it shall be lawful for the corporation, by their agents or persons in their employ, to enter upon any land to make surveys and estimates, and for the purpose of searching for stone, gravel, wood, or other materials necessary for the construction of said road; but no stone, gravel, or other material, shall be taken away from any lands without the consent of the owner thereof, until the amount of compensation therefor shall have been ascertained and paid.

**SEC. 14.** It shall be lawful for the corporation, either before or after the location of said road, to obtain from any person or persons through whose lands the same may run, a relinquishment of so much of said land as may be necessary for the construction of said road, also the stone, gravel, timber and other materials that may be obtained upon said route, and may contract for stone, gravel, timber and other materials that may be obtained from any lands near thereto; to receive by donations, gifts, grants or bequests, lands, moneys, labor, property, stone, gravel, wood or other materials for the benefit of said corporation; and all such contracts, relinquishments and donations, gifts, grants or bequests, made and entered into in writing by any person or persons able in law to contract, made in consideration of such location and for the benefit of the corporation, may and shall have their action at law in any court of competent jurisdiction to compel a compliance therewith: *Provided*, That all such contracts, relinquishments, donations, gifts, grants, &c. shall be made in writing by the party making the same.

**SEC. 15.** That when said corporation shall have procured the right of way, as herein provided, they shall be seized in fee simple of the right to such land, and shall have the sole use and occupation of the same for the purposes aforesaid, and no person, body corporate, and politic, shall in any way interfere with, molest, injure or disturb any of the rights and privileges granted.

**SEC. 16.** The corporation shall commence the construction of said road within five years from the passage of this act and finish the same within ten years thereafter: *Provided however*, That if five miles of said turnpike road shall be completed within the time aforesaid, this

charter shall not be forfeited as to that part of the road so completed, nor any part that may be completed within ten years.

SEC. 17. The corporation shall cause said road to be opened not exceeding sixty-six feet wide, at least sixteen feet of which width shall be an artificial rod, [road] composed of stone, or gravel, well compacted together, in such manner as to secure a firm, substantial, and even road, rising in the middle with a gradual curve, and shall maintain and keep the same in good repair, and in no case shall the ascent in the road be greater than an elevation of four degrees except at the Tanner's creek and at Laughery's creek hills, which shall not exceed six degrees of elevation.

SEC. 18. If said road after the completion thereof shall be suffered to go to decay, or be impassable for one year, unless when the same is repairing, this charter shall be considered as forfeited.

SEC. 19. So soon as said corporation shall have completed said road or any five miles thereof, agreeably to the provisions of this act, they may erect a gate or gates at suitable distances apart, not less than five miles, and demand and receive of persons travelling on said road, the tolls allowed by this act: *Provided*, That the company shall have power to erect quarter gates, if to them it shall seem necessary to the protection of the rights of said company.

SEC. 20. The following shall be the rates of tolls, for each and every ten miles of said road, and in same proportion, for a greater or less distance, to-wit: For every four wheeled carriage, wagon or other vehicle, drawn by one horse, or other animal, a sum not exceeding eighteen and three-quarter cents; for every horse or other animal in addition, six and one-quarter cents; for every cart, chaise or other two wheeled carriage or vehicle, drawn by one horse, or other animal, not exceeding twelve and one-half cents; for every horse, or other animal in addition, six and one-fourth cents; for every sled or sleigh, drawn by one horse or other animal, six and a fourth cents; for every horse, or other animal in addition, six and one-fourth cents; for every coach, chariot or other four wheeled pleasure carriage, drawn by one horse, or other animal, not exceeding eighteen and three-quarter cents; for every additional horse or other animal, six and a quarter cents; for every horse and rider, not exceeding ten cents; for every horse, mule or ass, six months old or upwards, led or drove, not exceeding three cents; for every head of neat cattle, six months old and upwards, one cent; every hog or sheep a half cent each: *Provided*, That all persons going to or returning from funerals, or militia musters shall pass said road free of toll.

SEC. 21. If any person or persons using said road, shall, with intent to defraud said company, or evade the payment of toll, pass through any private gate or bars or along any other ground near to any turnpike gate, which shall be enclosed pursuant to this act, or shall practice any fraudulent means, with intent to evade or lessen the payment of any such tolls, or if any person shall take another off said road with intent to defraud said corporation, each and every person concerned in such fraudulent practice, shall, for every such offence, forfeit and

pay to the corporation, the sum of five dollars, without any stay of execution, to be recovered with costs of suit, in an action of debt, at the suit of the corporation, before any justice of the peace of the county or counties through which it passes: *Provided*, That nothing in this act shall be so construed as to prevent persons residing on said road from passing thereon, about their premises for common and ordinary business.

SEC. 22. The company shall put a post of stone at the end of each mile, with the number of miles from each extremity, fairly cut or painted thereon, and also in a conspicuous place near each gate, shall be placed a board, with the rates of toll fairly painted thereon, and all other necessary matter in relation to direction.

SEC. 23. Any person wilfully or maliciously destroying, defacing or removing any guide-board, mile-post or stone, or list of rates of toll erected on said road, shall, on conviction thereof before any justice of the peace, forfeit and pay a sum not exceeding twenty dollars, to be recovered with costs of suit in an action on the case, at the suit and for the use of the corporation.

SEC. 24. If any toll gatherer on said road, shall unreasonably detain any passenger, after the toll has been paid or tendered, or shall demand or receive greater toll than is by this act allowed, he shall, for every such offence, forfeit and pay a sum not exceeding ten dollars, to be recovered before any justice of the peace having competent jurisdiction, within twenty days after the occurrence.

SEC. 25. The corporation shall cause to be kept a fair account of the whole expense of making and repairing said road or any section thereof, with all incidental expenses, and also a fair account of the tolls received, and the books of said corporation shall always be kept open for the inspection of any stockholder or creditor of said company, and the said company shall, at any time dispose of the stock to the state or counties through which it passes, for the money actually paid in or expended about said work.

SEC. 26. It shall be lawful for the county commissioners of Dearborn and Ripley counties, for and on behalf of their respective counties, to authorize by an order, as much of the stock to be taken as they may think proper.

SEC. 27. The stockholders in said corporation shall be liable in a just ratio or proportion of their amount of stock held or subscribed for all debts incurred or created during their said possession of said stock, and in case of sale or transfer of said stock from the original subscription, it shall not release the original subscriber in his just proportion from any debt or debts incurred or created during his, her or their possession of said stock.

SEC. 28. This act to be in force for the period of twenty years from and after its passage, at the expiration of which term of years, it shall require a vote of two-thirds of each branch of the general assembly to alter, amend or repeal.

## CHAPTER V.

**An act to incorporate the City of Fort Wayne.**

[APPROVED FEBRUARY 22, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the district of country included in the following described limits shall forever be known as the city of Fort Wayne, subject however to be enlarged as the city shall increase in population, viz: Beginning at a point where the west line of section two, township thirty north, range twelve east, second meridian strikes the south side of the St. Marys' river at low water mark; thence along the meanders of the said river and the Maumee to a point where the half section line of section one, in township aforesaid touches the Maumee river at low water mark; thence south to a point eighty perches beyond the south line of section one aforesaid; thence west to the St. Marys' river; and thence down along to the meanders of said river to the place of beginning.

**SEC. 2.** The inhabitants of said city shall be a corporation by the name and description of the city of Fort Wayne, and by their corporate name shall be able and capable in law and equity to sue and be sued, to plead and be impleaded, to answer and be answered unto, defend and be defended in any and all courts of competent jurisdiction, and shall have power to make and use a common seal, and the same to break, alter and amend at pleasure, to take, hold, purchase and convey such real and personal estate as the purposes of the corporation may require.

**SEC. 3.** That Samuel Edsal, Reuben J. Dawson, Madison Sweetser, John E. Hill and Thomas Hamilton or a majority of them, shall be the inspectors of the first election held under this act, which election shall be held at the court house in the city of Fort Wayne on the first Monday in March, A. D. 1840, at which election any person competent to vote at the general state elections, and having resided six months last past within the limits of said city shall be entitled to vote thereat.

**SEC. 4.** On the first Monday in March, A. D. 1840, and triennially thereafter, there shall be chosen by ballot, one mayor, who shall hold his office for the term of three years, (except in cases to fill vacancies) and until a successor is elected and qualified.

**SEC. 5.** On the first Monday in March, 1840, and annually thereafter, there shall be chosen by ballot, six aldermen, who after the first election shall reside in the ward for which they are elected, and shall hold their offices for one year (excepting as aforesaid in section four,) and until their successors are elected and qualified.

**SEC. 6.** The ballot shall be a paper ticket, on which shall be written or printed the names of the persons for whom the elector intends

to vote, and shall designate the office to which the person so named is intended by him to be chosen, but no ballot shall contain a greater number of names as designated to any office than there are persons to be chosen to fill such office.

**SEC. 7.** The poll of all elections held in pursuance of this act, shall, (as near as may be) be opened at ten o'clock in the forenoon, and continue open until four o'clock in the afternoon of the same day and no longer; poll lists shall be kept in the same manner, as nearly as may be, as is provided by law for keeping poll lists at the general elections.

**SEC. 8.** Every person offering to vote at such elections shall, if required by any person qualified to vote thereat, before he is permitted to vote, take the following oath, to be administered by one of the inspectors of said election: "You do swear (or affirm) that you are a citizen of the United States of the age of twenty-one years, that you have for the last six months been and now are a resident of the city of Fort Wayne, have been assessed therein and paid a tax and have not voted at this election;" *Provided*, That nothing herein contained shall prevent the common council from directing and having the election held in each of the wards in said city, in such manner and under such restrictions as they may think proper, when they shall deem it necessary or expedient.

**SEC. 9.** After the poll of any election is closed, the inspectors holding the same in the said city or in each of the wards therein as the case may be, shall on the same or next day canvass and estimate the votes given at such election; the canvass shall be public and shall commence by a comparison of the poll list and a correction of any mistakes that may be found therein until they shall be found or made to agree; the ballots shall be counted unopened except so far as to ascertain that each ballot is single and if two or more ballots shall be found so folded as to present the appearance of a single ballot, they shall be destroyed.

**SEC. 10.** If the ballots shall be found to exceed in number the whole number of votes on the poll list, they shall be replaced in the box and one of the inspectors shall publicly draw out and destroy so many ballots unopened as shall be equal to such excess; the ballots and poll-lists being found or made to agree, the inspectors holding such election, shall proceed to canvass and estimate the votes.

**SEC. 11.** The canvass being completed, a statement of the result shall be drawn up in writing by the inspectors, which they shall certify to be correct and subscribe with their names and file the same with the recorder of said city on the same or next day after the canvass shall be completed. The certificate of the inspectors shall designate by name the persons who are, by the greatest number of votes, elected mayor or aldermen: *Provided however*, If the common council shall direct elections to be held in each of the wards of said city, they may prescribe the mode of making returns of said elections, and also by whom and in what manner the certificates of election for mayor and aldermen shall be given.

**SEC. 12.** After the first election held under this act, the common council shall appoint three persons as inspectors of election, (and in case of ward elections then three inspectors in each ward) who shall give public notice in a newspaper printed in said city, at least fifteen days previous to the day of election, of the place or places for holding the same.

**SEC. 13.** All officers elected under this act at any annual election shall enter on the duties of their respective offices on the Monday next following their election to said offices. It shall be the duty of all officers elected or appointed in pursuance of this act, before entering upon the duties of such office, to appear before some proper officer authorized to administer oaths, and take and subscribe the oaths prescribed by the eleventh article of the constitution of this state, and file the same in the office of the recorder of said city.

**SEC. 14.** Should the regular inspectors of any election fail to attend at the place designated, by ten o'clock A. M. of any day on which an election is to be held, then and after that time, it shall be lawful for the qualified electors present to appoint *viva voce*, and by a plurality of voices, inspectors for the occasion, who shall be governed in all things by the same rules as the regular inspectors. If any inspector, judge or clerk of any election, having taken upon himself the performance of the duties herein required, shall neglect or refuse to discharge the same, or shall be guilty of any fraud or corruption in doing such duties, he shall forfeit and pay any sum not exceeding one hundred dollars for every such wrongful act of commission or omission, to be recovered in the name and for the use of said city, before any court of competent jurisdiction.

**SEC. 15.** Vacancies in the offices of mayor or aldermen, caused by the death, removal or otherwise, may be filled at a special election called and appointed by the common council, and conducted in the same manner as an annual election. Vacancies in all other offices shall be filled by appointment of the common council.

**SEC. 16.** Any person having been an officer in said city, who shall not within ten days after notification and request, deliver to his successor in office all the property, papers, and effects of every description in his possession belonging to said city, or appertaining to the office he held, he shall forfeit and pay for the use of the city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver.

**SEC. 17.** The mayor and aldermen elected and qualified as aforesaid shall constitute the common council of the city, but a majority of the aldermen shall at all times be necessary to constitute a quorum for the transaction of business. They shall be the judges of the election returns and qualifications of their own members, shall determine the rules of their proceedings and keep a record thereof, which shall be open to the inspection and examination of every citizen who is a qualified voter. The mayor shall be president of said council, and preside at all their meetings when present, but shall vote only in case of a tie in the council. In the absence of the mayor any member of the council may be elected president for the time being, who shall

possess the same power with the mayor while acting in that capacity.

**SEC. 18.** The common council shall meet at such place as they may appoint, on the second Monday in March annually, and at that or any subsequent meeting, by ballot appoint one recorder, one attorney, one or more assessors, one treasurer, one collector, one street commissioner, one high constable, one or more police constables, one clerk of the market, one or more measurers of grain, lumber, wood, coal, and lime, a flour inspector, a gauger, a sealer of weights and measures, a weigher of hay, a scavenger, and a common crier or bell man: *Provided, however,* that the said common council shall appoint such of the above officers only at the time above mentioned, as in their opinion the interest and necessities of said city may require.

**SEC. 19.** The treasurer, collector, and street commissioner of said city shall severally, before they enter on the duties of their respective offices, execute a bond to the city of Fort Wayne in such sum and with such securities as the common council shall approve, conditioned that they shall faithfully execute the duties of their respective offices, and account and pay over all monies received by them respectively to the persons authorized to receive the same; which bonds with the approval of the common council thereon certified by the recorder shall be filed in the office of said recorder.

**SEC. 20.** Every person appointed to the office of high constable or police constable in said city, shall, before he enters upon the duties of his office, with two securities to be approved by the common council, execute in the presence of the recorder of the city, an instrument in writing by which such constable and his securities shall jointly and severally agree to pay to each and every person who may be entitled thereto all such sums of money as the said constables may be liable to pay by reason or on account of any precept, execution, or distress warrant which shall be delivered to him for collection. The recorder of the city shall certify the approval of the common council on such instrument and file the same in his office, and a copy of such instrument certified by the recorder, under the corporate seal, shall be *prima facia* evidence in all courts of the execution thereof by such constable and his securities. All actions brought on any such instrument shall be prosecuted within two years after the expiration of the year for which the constable named therein shall have been appointed, and may be brought in the name of the person or persons entitled to the money to be collected by virtue of such instrument.

**SEC. 21.** It shall be the duty of the mayor to be vigilant and active at all times, in causing the laws and ordinances of said city to be enforced and duly executed, to inspect the conduct of all subordinate officers, and as far as in his power to cause all negligence, carelessness, and positive violation of duty to be prosecuted and promptly punished. He shall keep the public seal of said city and sign all commissions, licenses and permits which may be granted by or under the authority of the common council. He shall keep an office in some convenient place in said city, and shall have power to take and certify under the seal of said city, the proof and acknowledgments of all deeds.

for the conveyance in anywise of real estate or other instrument of writing according to law and the usages in such cases; and all acknowledgments taken and certified by the mayor, under the corporate seal, shall be good in every court and county in the state, without further authentication. He shall perform such duties and exercise such powers, as from time to time may devolve upon him by the ordinances of said city, and generally do and perform all such other duties and exercise such other powers as appertain to the office of mayor. He shall also be a judicial officer, and in his judicial capacity shall have exclusive original jurisdiction in all cases for the violation of the ordinances of said city; and from any judgment rendered for the violation of any by-laws, or ordinances, the defendant may appeal at any time within thirty days thereafter to the circuit court of Allen county, by giving bond to said city with at least one sufficient security acceptable to said mayor, in a reasonable penalty, conditioned for the payment of the debt, damages or penalty and costs that shall be recovered against him in said circuit court, which appeal when perfected by giving bond as aforesaid, shall entitle the party appealing to the same rights and privileges, subject to the same conditions, restrictions, and limitations as by law pertain to parties appealing from the judgment of justices of the peace to the circuit court. The mayor of said city is hereby created a conservator of the public peace and a justice of the peace, and shall exercise civil and criminal jurisdiction in all cases in the same manner and to the same extent as justices of the peace in their respective townships, and from his judgments an appeal may be taken to the circuit court in like manner and under like circumstances and conditions as from justices of the peace, he shall, within the jurisdiction of said corporation have power in cases of assault and battery, affray, or other breach of the peace to punish by fine, not exceeding twenty dollars, and imprison in the city or county jail not exceeding thirty days; the defendant having a right to demand a jury and to appeal within thirty days as aforesaid. He shall give bond, payable to the state of Indiana in like manner as justices of the peace are, or at any time may be required to do in the penal sum of five thousand dollars, which bond shall be deposited in the office of the clerk of Allen county. He shall keep a docket in the same manner as justices of the peace, and shall be entitled in all cases to the same fees for his services. In case of absence, he shall deposit his docket with some justice of the peace in said city, who, during the absence of such mayor shall be invested with all his judicial powers herein created, and shall act upon his docket and upon any new case that may arise under the ordinances of said city, as if he were mayor, and in case of vacancy in the office of mayor, by death, resignation, or otherwise, it shall be lawful for the common council to order the docket of said mayor to be placed in the hands of some justice of the peace in said city, and from the time said docket shall be so placed in the hand of such justice of the peace, he shall be invested with all the judicial powers of the mayor and may continue to serve until such vacancy is supplied. All constables shall be ministerial officers

of the mayor's court in like manner as they are of justices' courts, and shall be bound in the same manner to execute his process.

SEC. 22. It shall be the duty of the common council to appoint a high constable who shall be the chief ministerial officer of the mayor's court, and as such invested with all the powers of a sheriff and constable, entitled to the same fees, and subject to the same penalties and amercements. He shall, *ex officio*, possess all the powers, privileges, and immunities of constables, and shall execute and return all process directed to him by the mayor or any justice of the peace, shall be governed in all respects by the laws now in force, or that may hereafter be enacted regulating the duties and jurisdiction of justices and the duties of constables in said Allen county. It shall be his duty to suppress all riots, disturbances, and breaches of the peace, to apprehend all rioters, disorderly persons and disturbers of the public peace in said city, and all persons in the act of committing any indictable offence against the laws of the state, or fleeing from justice after having committed such offence, and him, her, or them forthwith take into custody and bring before the mayor for examination, and in case of resistance may call to his aid, and command the assistance of all bystanders and others in the vicinity. He shall perform such other duties as may from time to time be required of him by the common council, and may appoint one or more deputies, and at pleasure dismiss or discharge them from office, being always responsible for the correct discharge of their duties.

SEC. 23. It shall be the duty of the recorder to attend all meetings of the common council and keep a full and fair record of all their acts, doings, and proceedings, and the minutes of the proceedings of each meeting being recorded, shall be read over by the recorder, and if incorrect in any particular shall be rectified, and when correct or corrected shall be signed by the mayor or other presiding officer of the meeting, and attested by the recorder; and at no future day after being so signed and attested, shall said records in any way be altered or amended. He shall keep and preserve all the records and other papers belonging to said city, and hand them over entire with all matters pertaining to his office to his successor, whenever one shall be appointed, and do and perform such other duties as may be enjoined upon him. And transcripts from the records of the common council, certified by the recorder under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. In the absence of the regular recorder, it shall be lawful for any alderman to act as recorder pro tempore.

SEC. 24. The treasurer shall receive all monies belonging to the city, and keep an accurate account of all receipts and expenditures, in such manner as the common council may direct. All moneys drawn from the treasury shall be in pursuance of an order of the common council, by warrants signed by the mayor, presiding officer for the time being of the common council, and countersigned by the recorder. Such warrants shall specify for what purpose the amount specified therein is to be paid, and the recorder shall keep an accurate ac-

count of all orders drawn on the treasury, in a book to be provided for that purpose. The treasurer shall exhibit to the common council, at least fifteen days before the annual election in each year, a full account of receipts and expenditures, also the state of the treasury, which account shall be filed in the office of the recorder.

SEC. 25. It shall be the duty of the street commissioner to superintend the making of all public improvements ordered by the common council, and make contracts for the work and materials which may be necessary for the same, and shall be the executive officer to carry into effect the ordinances of the common council, as regards the opening, paving, and repairing any street, alley, lane, highway, road, or wharf within said city, and shall keep an accurate account of all monies expended by him in the performance of any work, together with the cause of expenditure and to render such account to the common council monthly.

SEC. 26. It shall be the duty of the common council, at least ten days before the annual election held under this act, in each year, to cause to be published in the newspapers of said city, a full and correct statement in detail of the receipts and expenditures by said common council for the contingent expenses, and a distinct statement of the whole amount of money assessed, received and expended for making and repairing streets, lanes, alleys, roads or highways in said city for the year preceding the date of such publication, together with all information in their power to furnish, as may be necessary to a full knowledge and understanding of the financial concerns of said city.

SEC. 27. The common council shall have power to fix the salaries and fees of all officers appointed in pursuance of this act. The fees of the mayor shall also be fixed by the common council, when not specified in the act regulating the fees of justices of the peace, aldermen shall be entitled to receive for their services, one dollar per day, for each and every day they may serve at the meetings of the said common council: *Provided*, That the sum to be paid to any one of said aldermen shall not exceed the sum of twenty-six dollars in any one year: *Provided further*, That no alderman elected in pursuance of this act within one year from the passage thereof, receive any compensation for his services as alderman as aforesaid.

SEC. 28. The common council shall hold stated meetings at such time and place as they, by resolution, may determine upon, and the mayor and any two aldermen may call special meetings by notice to each of the members of said council served personally, or left at his usual place of abode, of which meeting public notice shall be given by posting up notices in three of the most public places in said city at least one day before such meeting. If any alderman shall neglect or refuse to attend any meeting of the common council, the mayor may compel his attendance by a warrant signed by himself as mayor and having the seal of the city, which warrant shall be served by any one of the officers of his court, and for contempt of his warrant the mayor shall have power to inflict a fine not exceeding five dollars on any person so offending, to be collected as other fines imposed under this

act. Petitions and remonstrances may be presented to the common council. The common council shall have the management and control of the finances and of all the property real and personal belonging to the corporation, and shall have power within said city, to make, establish, publish, alter, modify, amend, and repeal ordinances, regulations, and by-laws for the following purposes:

1st. To restrain and prohibit all descriptions of gaming and every kind of fraudulent device and practice in said city.

2d. To restrain and prohibit the selling or bartering of any spirituous liquors or ardent spirits to be drunk in the shop, store, grocery, out-house, yard, or garden of the person selling the same, unless licensed so to do by the city authority.

3d. To restrain and prohibit the selling, giving away, or bartering of any ardent spirits or intoxicating liquors to any person already drunk or known to be in the habit of intoxication, or to any child, apprentice, or servant, without the consent of his or her parent, guardian, master, or mistress, or to any Indian.

4th. To regulate and prohibit all exhibitions of natural and artificial curiosities, and all shows, exhibitions, and amusements whatsoever, which in the opinion of said council are demoralizing to society or calculated to detract from the peace and good order of said city.

5th. To prevent riot, noise, disturbance, and disorderly assemblies.

6th. To suppress and restrain disorderly houses and groceries, houses of ill fame, billiard tables, nine or ten pin alleys or tables and ball alleys.

7th. To compel the owner or occupant of any piece of ground, grocery, cellar, tallow-chandler's shop, soap factory, tannery, barn, privy, sewer or other place, to cleanse the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of said city, and to remove or abate or otherwise destroy the cause which renders such house or place unhealthy or uncomfortable.

8th. To direct the location of all powder houses, slaughter houses, tallow chandler's shops, soap factories and other houses that may be an annoyance to the health and comfort or safety of said city, and if thought necessary, to prohibit the erection or continuance altogether of such establishments within the limits of said city.

9th. To regulate the keeping and conveying of gunpowder and other combustibles and dangerous materials and the use of candles and lights in houses and stables.

10th. To prevent horse-racing, and immoderate riding or driving in the streets.

11th. To prevent the encumbering of the streets, side-walks, lanes, alleys or wharves, with carriages, carts, boxes, lumber, timber, firewood, or any other substance or material whatsoever.

12th. To regulate and determine the times and places of bathing and swimming in the rivers and canals in or adjoining said city.

13th. To restrain and punish vagrants, mendicants, street beggars, habitual drunkards and common prostitutes.

14th. To regulate and restrain the running at large of cattle, horses, swine, sheep, goats, geese or other animal, and to authorize the distraining, impounding and sale of the same for the penalty incurred and costs of proceedings.

15th. To prevent the running at large of dogs, and to authorize the destruction of the same when at large contrary to the ordinances.

16th. To prohibit any person from bringing or depositing or having within the limits of said city any dead carcass or other unwholesome substance, and to require the removal or destruction by any person who shall have the same upon or near his premises by his own act or consent, of any such substance, or any putrid or unsound beef, pork, fish, hides or skins of any kind, or other unsound or unwholesome sustenance whatsoever and on the default of such person, to authorize the removal or destruction by the proper officer of said city.

17th. To prohibit the rolling of hoops, playing at ball or long bullets, using of fire-crackers, or flying kites, or any other instruments or practice having a tendency to annoy or endanger persons passing the streets, or to frighten teams or horses within said city.

18th. To compel all persons to keep the snow, ice and dirt from the side-walks, and to cleanse and to keep clean the gutter and street in front of the premises by them owned or occupied.

19th. To prevent the disorderly ringing of bells, blowing of horns, and bugles, and crying of goods or other things within the limits of said city to the disturbance of the citizens.

20th. To abate and remove nuisances, to declare what shall be deemed nuisances within said city, and abate the same or punish by suitable penalties the person or persons causing or continuing the same, or both abate and punish at discretion.

21st. To regulate and restrain runners and carriers for boats and stages.

22d. To license and regulate carts, wagons, drays and carriages which may be kept in said city for hire.

23d. To survey, mark and establish the boundaries of said city.

24th. To regulate the burial of the dead, purchase and provide common burying grounds, hearses, and other things necessary to burial, and appoint one or more sextons, and prescribe his duties.

25th. To direct the keeping and returning of bills of mortality and to impose penalties on physicians, sextons and others for any default in the premises.

26th. To regulate gauging; the place and manner of selling and weighing hay and of selling and measuring lumber and wood, lime, grain and coal, the inspection of flour, salted pork, beef, butter, and lard.

27th. To regulate the quality of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

28th. To establish, make and regulate the public pumps, wells, cisterns and reservoirs, and to prevent the unnecessary waste of water.

29th. To provide for the watering of said city.

30th. To establish and regulate public pounds.

31st. To prevent the firing of guns and pistols and all other fire-arms or fire-works, within said city.

32d. To prevent the erection of wooden buildings in such parts of said city as they may think proper.

33d. To erect market houses, a hospital, a council house and a city jail, and to regulate and govern the same, and to erect houses for common schools.

34th. To prevent and restrain forestalling and regrating.

35th. To guard against damage by fire; to organize fire companies and regulate and govern the same, and regulate the duty and conduct of the citizens in relation thereto.

36th. To regulate the police of said city.

37th. To diminish or increase, or at any time otherwise alter the number and limits of the wards of said city; but no such change in the wards of said city shall in the least affect the present council or vacate the seat of any alderman for his present term, or authorize the election of an alderman for any new made ward, until the next annual election.

38th. To borrow money for the use of said corporation.

39th. To regulate auctions of horses and other domestic animals in the streets, and appoint and license auctioneers.

40th. To levy and collect a revenue for the use of said city, in the manner hereinafter prescribed.

41st. To prevent injuries to the inhabitants of said city, from thieves, robbers, burglars, and all other persons violating the public peace.

42d. To establish a board of health for said city, to invest it with such powers and to impose upon it such duties as shall be necessary to secure said city and the inhabitants thereof from the evils, distress and calamities of contagious, malignant or infectious diseases; provide for its proper organization and the election or appointment of the necessary officers thereof, and make such by-laws, rules and regulations for its government and support as shall be required for the prompt performance of its duties and the lawful exercise of its powers.

43d. To establish a city watch, define its duties and prescribe its powers.

44th. To license and regulate all taverns and all porter shops and houses, and all other places where spirituous liquors are sold by a less quantity than a quart, and all other houses of public entertainment within said city; all theatrical exhibitions and public shows, and all exhibitions of whatever name or nature, to which admission is obtained on the payment of money or any other reward.

45th. To regulate the construction of chimneys, fire-places, hearths, and stove-pipes, so as to prevent damage from fire.

SEC. 29. The common council shall have power to prescribe from time to time, the duties of all officers and persons appointed by them to any office or place whatever, subject to the provisions of this act, and may remove all such officers and persons at pleasure.

**SEC. 30.** The common council may make, publish, ordain, amend and repeal all such ordinances, by-laws and police regulations not contrary to the laws of this State, for the good government and order of the city, and the trade and commerce thereof as may be necessary to carry into effect the powers given to said council by this act, and enforce observance to all rules, or ordinances, by-laws and police regulations made in pursuance of this act, by imposing penalties on any person violating the same, to be recovered with costs, in an action of debt or on the case, in any court having cognizance thereof. Every such ordinance or by-law imposing any penalty or forfeiture for a violation of its provisions shall, after the passage thereof, be published for three weeks in succession in a newspaper printed and published in said city, to be designated by said common council for that purpose and proof of such publication by the affidavit of the printer or publisher of said newspaper taken before any officer authorized to administer oaths and filed in the office of the recorder of said city, or other competent proof of such publication, shall be conclusive evidence of the legal publication of such ordinance or by-law, in all courts and places.

**SEC. 31.** All actions brought to recover any penalty or forfeiture incurred under this act, or the ordinances, by-laws, or police regulations made in pursuance of it shall be brought in the name of the corporation, and in such actions it shall be lawful to declare generally in debt for such penalty or forfeiture, stating the section of this act or by-law or ordinance under which the penalty is claimed, and to give the special matter in evidence, and the defendant may plead the general issue, and give under such plea all matters in evidence. The first process in any such action shall be by capias, or warrant, unless the defendant be a resident freeholder in the county of Allen, in which case the process shall be a summons; and on the rendition of judgment the same proceedings shall be had against the defendant as are now required in similar cases by the law regulating the jurisdiction and duties of justices of the peace. All expenses incurred in prosecuting for the recovery of any penalty or forfeiture shall be defrayed by the corporation; and all forfeitures and penalties when collected, shall be paid to the treasurer for the use of said city.

**SEC. 32.** No person shall be an incompetent judge, justice, witness, or juror, by reason of being an inhabitant, citizen, or freeholder of said city, in any action or proceeding in which said city is a party, or interested.

**SEC. 33.** Whenever the owners of lots on any street or section of street, lane or alley shall be desirous of making any improvement on the same by grading, graveling, paving, M'Adamizing, curbing or guttering, or any other improvement; and the owners of lots on said street, lane or alley, or section thereof, by themselves or agent representing five-eighths of the whole number of feet on each side of said street, lane or alley, or section of street lane or alley, shall by petition to the common council represent plainly and distinctly the improvement wanted or contemplated to be made, it shall be the duty of the common council to cause the same to be done in the best and most

economical manner agreeably to the wishes of the petitioners and the expenses thereof shall be assessed and levied on all the lots fronting on said street or section of street equally per front foot for the distance such improvement may be made. It shall be the duty of the recorder to enter such petition on record with the petitioners' names and the number of feet front owned or represented by each, so that it may appear at any time, whether the requisite number of feet were subscribed. And the common council may by general ordinance provide for the collection of the expenses of all such improvements, and in case of non-payment for the sale of the lot or fraction of lot on which such taxes remain unpaid, such sale to be conducted in the same manner as hereinafter provided for sale of lots and lands for non-payment of taxes: *Provided however,* That the common council shall have power, if they deem it more just and equitable to assess the expenses of such improvements on the lots fronting on said street or alley agreeably to the valuation thereof. *And provided also,* That the common council may, when in their opinion, the general good requires it, cause any such improvement to be made without petition, and assess the expenses either *pro rata* per square foot or agreeably to the valuation as aforesaid. But the concurrence of three-fourths of the members of the common council shall be necessary to authorize an improvement without petition, or to authorize the levying of expenses, *ad valorem*.

**SEC. 34.** No street, lane or alley shall be discontinued without the consent of the owner or owners of the adjoining property to be given in writing and spread upon the records of the corporation, nor shall any new street, lane or alley be made through private property without first paying to the person or persons whose property shall be thus appropriated, if demanded, the full amount of real injury sustained thereby; which damages shall be assessed by a jury of five disinterested persons under oath, to be summoned by the common council for that purpose. For the purpose of enabling such person to make demand for damages, it shall be the duty of the common council to give six weeks public notice by advertising in some public newspaper printed in said city, of their intention to make and establish such new street, lane, or alley, and any person feeling aggrieved thereby may at any time within said six weeks apply to the common council for redress by remonstrance in writing left with the recorder of said city.

**SEC. 35.** For the purpose of defraying the expenses of lighting the streets, supporting a night watch, repairing streets, alleys and highways, and to defray the contingent and other expenses of said city, the common council shall have power to impose, levy, and collect a tax upon all the real and personal estate within the limits of said city, as is hereinabove mentioned: *Provided however,* That the sum so to be raised shall not in any one year exceed the one-half of one per cent. upon all such real and personal estate as is hereby and herein made subject to taxation. *And provided further,* That lands included within the limits of said city and not laid out in town lots, shall not be taxed by said corporation, until laid out as aforesaid.

**SEC. 36.** The assessor or assessors shall, on or before the second Tuesday in June in each and every year, deliver to the recorder his or their assessment roll, in which the names of all citizens of said city subject to taxation shall be written. At the end of each name shall be set down in figures the value of each lot or piece of land, (either with or without the improvement thereon, as the common council shall direct,) that such person owns in said city in one column, and in another column in figures, the value of his or her personal estate, designating non-resident lots or parts of lots by proper boundaries and the value thereof. In valuing all real estate, the worth in ready money or the amount for which it would be received in payment of a bona fide debt shall be considered the value thereof; in estimating personal property the said assessors shall take an account of all such household furniture as they shall be directed by the common council, which shall be uniform throughout the city and of uniform value, from which amount they shall deduct one hundred dollars if it shall amount to that, the residue only to be taxed; all horses, cattle, clocks and watches in use, pleasure carriages, and such other articles and things as the common council shall by ordinance direct. The said assessors shall, on or before the twentieth day of June in each year, visit each house in their respective districts in person, and ascertain from actual inspection and the best information they can get, the value of all real estate in their respective districts, and obtain from the inhabitants subject to taxation the amount of their personal estate; if the said assessor shall mistrust or suspect that any person subject to taxation secretes or conceals any of his effects subject to taxation, said assessor shall have power to administer an oath or affirmation that the statement made by him of his property or effects is true; false swearing in the premises shall be adjudged wilful and corrupt perjury, and punished accordingly. The said assessors shall meet annually at such place within said city as may be agreed upon by them sometime between the twentieth of June and first of July in each year, and compare their respective assessment rolls, and equalize the valuation thereof as near as may be, and enter them on one roll or book alphabetically with the value of real and personal estates of all the inhabitants of said city subject to taxation. No property belonging to the corporation or property appropriated for religious purposes or school purposes shall be taxed under this section. In the assessment roll made under this act, all persons who would be liable to work on the highways, if they resided in any other towns in this state, shall be enumerated on said roll, although not taxed, and the common council may tax each one so enumerated, not exceeding one dollar, to be laid out as the common council shall direct. It shall be the duty of said assessors to take an account of all dogs in said city, and by whom owned. Said assessment roll, when completed, shall on or before the first Tuesday in July in each year be filed in the office of the recorder in said city. The common council shall cause an equalization of the tax so ordered as aforesaid, to be made on the assessment roll according to the valuation of the real and personal property there set down; make a fair copy thereof and deliver the

same to the collector on or before the first day of October in each year with a warrant attached thereto under the corporate seal, directing said collector to collect from each of the persons named on such tax list, the several sums set opposite their respective names, and if not paid by the first day of November then next ensuing, make the same of the goods and chattels by distress and sale, giving the same notice as is required by law of constables to do on sale by execution from justices' courts, and to sell the same accordingly. It shall be the duty of said collector to return the same tax list and money collected by him to the treasurer of said city, on or before the first Tuesday in November in each year. It shall be the duty of said collector to call at the residence of each person named in his tax list, at least once, before attaching his or her goods and chattels; if no goods can be found whereon to levy, the mayor may renew said warrant within thirty days, after receiving the same, with the money, if any is collected.

**SEC. 37.** To redress grievances arising under the foregoing section, the mayor and any two aldermen of said city shall constitute a board of appeals to hear and determine upon all such grievances as may be brought before them, and take such measures for the redress of the same as may seem proper and necessary to effect the object; said board shall hold their meetings at such place as they may determine upon, on or before the first Monday in August in each year, of which meeting they shall give at least ten days notice in the corporation newspaper of said city.

**SEC. 38.** All non-resident lands and all other lands within said city, on which a tax authorized by this act shall remain due six months after the time it ought to have been paid, it shall be the duty of the treasurer to give public notice thereof to the owners by publishing in the corporation newspaper for at least six weeks, describing the lands as near as practicable and the amount of tax, and stating that unless the owner thereof shall, within three months from the time of giving such notice, pay to the treasurer said tax with the interest and costs of advertising, the same will be leased to the person who will take it for the least number of years and pay the tax, interest and costs, and for that purpose it shall be offered at vendue, of which vendue the treasurer shall give two weeks' notice in the corporation newspaper; on receiving the tax, interest and costs, the said treasurer shall give to the purchaser or lessee, a certificate, stating the amount of money paid and describing the land as near as practicable, subject to redemption for two years, by the owner paying the purchaser or the treasurer, together with the interest of twenty per centum per annum, which certificate shall be countersigned by the recorder.

**SEC. 39.** If the owner or owners of land sold or leased for tax as aforesaid, shall refuse or neglect to redeem said lands for the space of two years, it shall then be lawful for the mayor, and he is hereby required to make out a lease in due form to the person entitled thereto, for the time specified in said certificate and to his heirs and assigns, which lease shall be signed by the mayor and countersigned by the recorder.

corder, with the corporate seal attached, which shall vest the title to said lessee, his heirs and assigns for the time therein specified, and all buildings that may be put on said premises may be removed off before the termination of said lease.

SEC. 40. All official bonds (the mayor's excepted) taken under this act shall be made payable to the city of Fort Wayne.

SEC. 41. Until a city jail shall be erected, said corporation shall be allowed the use of the county jail of Allen county, and the sheriff of said county shall receive and discharge such persons as may be committed in and from said jail in such manner as may be prescribed by the ordinances of said city or otherwise by due course of law.

SEC. 42. For the better regulating the peace and good government of said city, the common council is hereby authorized to extend their jurisdiction to any distance not exceeding one mile in any direction beyond the limits of said city, and to pass and adopt by-laws or ordinances for the suppression of immorality, intoxication, rioting or whatever may detract from the peace and good order of society as well in said extended jurisdiction as within the limits of said city.

SEC. 43. The common council when organized as provided by this act shall have full authority to demand, recover, receive all books, papers, moneys and effects of the existing corporation of the town of Fort Wayne, which books, papers, moneys and effects, together with all species of property belonging to the present corporation aforesaid, at the time of such organization of the common council shall vest in the city of Fort Wayne as a corporate body by virtue of this act. If the president or any other officer of the existing corporation of the town of Fort Wayne, shall not, within thirty days after notification and request, deliver to the common council of said city, all the property, papers, moneys and effects of any description in his possession, or belonging to said town, or appertaining to the office he held, he shall forfeit and pay for the use of said city, one hundred dollars, besides all damages caused by his neglect or refusal so to deliver. The common council shall also have power to adjust and settle all claims and all demands in favor or against the town corporation.

SEC. 44. All laws or parts of laws now in force, in any manner conflicting with the provisions of this act as far as the said city of Fort Wayne is concerned, and within the jurisdiction of the corporation herein and hereby created, be and the same are hereby repealed.

SEC. 45. The legislature hereby reserves to itself the power of altering, amending or repealing this charter in whole or in part at any time hereafter.

SEC. 46. The proceedings of the board of trustees of the town of Fort Wayne are hereby legalized. This shall be a public act and liberally construed for beneficial purposes, and shall take effect from and after its publication in the Fort Wayne Sentinel, and its approval by a majority of the votes given at an election called for that purpose, by the present board of trustees of the town of Fort Wayne; any person legally qualified to vote at any state election and residing within the limits of said corporation, or within the proper chartered limits of

said city of Fort Wayne, shall be entitled to vote at said election, and shall vote "charter" or "no charter;" said charter, if adopted, to be published as aforesaid at the expense of said city, and if not adopted, then at the expense of the corporation of said town of Fort Wayne.

## CHAPTER VI.

An act to incorporate the City of Richmond, Wayne county, Indiana.

[APPROVED FEBRUARY 24, 1840.]

### NAME AND GENERAL FORM OF INCORPORATION.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That the inhabitants within the limits hereinafter described, are hereby declared to be a body corporate and politic by the name and style of the "City of Richmond."

SEC. 2. By that name they shall have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended in any court of law or equity.

SEC. 3. They may contract and be contracted with, purchase lands, tenements, hereditaments, goods and chattels, and hold the same, for the use and benefit of themselves and their successors, or for the same purposes, may sell, transfer and convey the same to others. They may also borrow money for the use of the corporation, and in case of a surplus on hand, above the immediate wants at any term of the corporation, may loan the same at any interest not exceeding ten per centum per annum, or invest the same in stocks as may be deemed best and safest for said corporation: Provided, The said corporation shall at no time purchase any real or personal property, for the purpose of barter or sale, for profit, or borrow money to re-loan.

SEC. 4. Said corporation shall have and use a common seal, and break and alter same at pleasure; and make and enforce all by-laws necessary for the good government and welfare of said city, not inconsistent with the constitution of the United States or the constitution of this state.

### LIMITS OF THE CORPORATION.

SEC. 5. Beginning at the north east corner of the western abutment of the bridge across White-water river, on the national road, running thence up said river, and bounding thereon to the mouth of the West fork or Newman's creek; thence across said West fork and

along the western side of the said East fork to a point immediately opposite the cascade immediately below the paper mill dam, (now of the Richmond trading and manufacturing company;) thence crossing said river at said cascade, east 136 perches; thence south until it intersects the most northern line of Charles Shute's land; thence with his land and lands of Daniel Burgess west, until it intersects the eastern side of Franklin street, extended as now located in said city; thence south forty perches; thence west until it intersects the western bank of White-water river aforesaid; and thence up, by and with said river bank to the place of beginning.

#### OFFICERS, HOW CREATED AND TERM OF SERVICE.

**SEC. 6.** The officers of this corporation shall consist of a mayor, two councilmen from each ward as now located, or as may hereafter be established, an assessor, a collector, a treasurer, a clerk and a marshal.

**SEC. 7.** The mayor shall be elected by the qualified voters residing within the limits of the city, annually, and shall hold his office for one year and until his successor is chosen and qualified.

**SEC. 8.** The councilmen shall be elected by the qualified voters of the said city, each ward thereof being entitled to two members, who shall hold their offices one year each and until their successors shall be chosen and qualified; and any person thus elected commissioner [councilman,] refusing to serve shall pay a fine of ten dollars: *Provided however,* That no person shall be compelled to serve two years in succession.

**SEC. 9.** The mayor and councilmen shall constitute a board to be called the common council, of which the mayor shall be ex-officio the president, and five members of the common council shall constitute a quorum for the transaction of business, and in case of the absence of the mayor, or in case of vacancy in his office, may select one of their own number president pro tempore of said council.

**SEC. 10.** It shall be the duty of the mayor to preside at all meetings of the board, unless pending questions in which he may be personally interested; but he shall *only* be entitled to vote on questions where the board doing business shall be equally divided in opinion, and in all such cases he shall give the casting vote.

**SEC. 11.** In case of a vacancy in the office of mayor, such vacancy shall be filled by a new election, two weeks' notice thereof being given by the common council in some public newspaper printed in the city of Richmond.

**SEC. 12.** In case of vacancy in the office of councilmen, such vacancy shall be immediately filled by the board, to continue until the next regular annual election, and until a successor to such person so appointed is elected and qualified.

**SEC. 13.** A full and accurate record of the proceedings of the common council shall be kept by the clerk, and each day's proceedings shall be signed by the president and attested by the clerk, which pro-

ceedings shall be subject at all times to the inspection of any citizen of said city, who is a qualified voter thereof.

**SEC. 14.** Before entering upon the duties of his office, the mayor shall take an oath or affirmation, faithfully to perform the duties of the office before some person authorized to administer the same, and also give bond, made payable to the city of Richmond, with security to be approved by the common council, in the penalty of one thousand dollars, for the faithful discharge of his duties, which bond shall be deposited in the office of the clerk of said city of Richmond.

#### MAGISTERIAL POWERS OF THE MAYOR.

**SEC. 15.** The mayor so elected and qualified, shall have the same jurisdiction and power, in both civil and criminal cases, which justices of the peace have in their respective townships; and his jurisdiction shall also extend to all cases of violation of any of the by-laws, ordinances, regulations or decrees of the common council in regard to any and all matters whatsoever.

**SEC. 16.** Said mayor shall have the same power to issue process in all cases within his jurisdiction, shall proceed in the same manner, and be entitled to the same fees as a justice of the peace. He shall keep a docket, which in all respects, shall have the same effect as the docket of a justice of the peace; and the parties to any suit before him, shall have the same right to a change of venue, to trial by jury, and to an appeal to the circuit court, as if the suit were instituted and pending before a justice of the peace.

#### DUTY OF THE MARSHAL.

**SEC. 17.** It shall be the duty of the marshal to serve and return all process issued by the mayor, and his power for this purpose shall be co-extensive with the county of Wayne. He shall attend all trials before the mayor, and shall be entitled to the same fees as constables for like service. He shall assist the mayor in carrying into effect the ordinances of the common council, and shall perform such duties as are prescribed by this charter, and may be prescribed by ordinance or ordinances of the council, and shall be a peace officer within the town. In case of the absence or inability of the marshal, the mayor may direct process to any constable of Wayne township, or person who shall serve and return the same as in other cases.

#### GENERAL PROVISIONS.

**SEC. 18.** No person shall be incompetent to be a witness or juror in suits for the violation of any by-law, ordinance, or decree of the common council, because such person may be a citizen of said city.

**SEC. 19.** The stated meetings of the common council shall be on the first Tuesday in each month in the year, and special meetings may

be called at any time with the approbation of any three councilmen, the other members being duly notified thereof.

**SEC. 20.** The councilmen, assessor, collector, treasurer, clerk and marshal shall severally be sworn or affirmed, faithfully to discharge their duties before entering into office, and the collector, treasurer and marshal shall severally give bond, payable to the city of Richmond in such penalty as may be required by the common council for the faithful discharge of their duties, and for faithfully accounting for all moneys or property that may come into their hands by virtue of their respective offices, the security to be approved by the common council, which bond shall be filed in the office of the clerk of the common council.

**SEC. 21.** In case of the rendition of judgment upon any bond taken by virtue of this act against the makers thereof, no stay of execution shall be allowed thereon. And in all prosecutions upon any official bonds given by virtue of this act, the same shall be instituted in the Wayne circuit court.

#### MODE OF ELECTING MAYOR AND COUNCILMEN.

**SEC. 22.** Every qualified voter of this state, not a pauper, who shall have resided in the city of Richmond for the six months next preceding the election shall be entitled to vote for mayor and councilmen of said city.

**SEC. 23.** An election for mayor and councilmen shall be held at such place as the present council may designate, on the first Monday of January, annually thereafter, between the hours of 9 A. M. and 4 P. M. of said day; of which election there shall be two weeks notice given in one or more of the newspapers printed in said city. Of the first election for mayor and councilmen under this act, notice shall be given by the present burgess and council of the borough of Richmond, and all subsequent elections for the same offices, notice shall be given by the common council.

**SEC. 24.** All votes for mayor, councilmen, assessor, treasurer, and marshal, shall be by ballot, and any person voting, not being a citizen of said city, or who shall vote more than once at the same election for the same office, or who shall be a minor, upon conviction thereof before the mayor, shall be fined in any sum not exceeding one hundred dollars, to be paid over to the treasurer for the use of the county seminary.

**SEC. 25.** In the first election for mayor and councilmen by virtue of this act, the burgesses and council of the borough of Richmond, as heretofore constituted, shall, at least two weeks previous to said election, appoint two discreet persons to act as judges of said election, they being first sworn or affirmed faithfully to discharge their duties as such. After being sworn or affirmed, they shall select two qualified voters to act as clerks of such election, who shall also be sworn or affirmed in like manner: *Provided, however, in case of the inability or absence of the judges and clerks so appointed, or either of them, the ci-*

tizens present, on the election ground, may select one or more of the qualified voters out of their own number to supply such vacancy, who shall in that case be invested with the same powers, being first sworn or affirmed to discharge their duty faithfully.

**SEC. 26.** When so qualified as aforesaid, the judges shall proceed to receive and count the votes given, and the clerks to keep a correct list thereof, and on the day subsequent to such election said judges, under their hands and seals shall certify to the clerk of the existing burgesses and council of the borough of Richmond, as at present constituted, the names of all persons voted for as mayor, with the number of votes given for each, written at full length, and also the names of all persons voted for as councilmen, assessor, treasurer, and marshal, with the number of votes given for each candidate, also written at full length; which certificates shall be filed on the records of said board.

**SEC. 27.** When such certificates shall be so filed, it shall be the duty of the clerk of said board to make out and deliver to the said person having the highest number of votes for mayor, a certificate of his election, which shall be a sufficient and full authority to said person to exercise the powers delegated to him by this act, after giving bond, or taking the oath or affirmation required by law. The said clerk shall immediately thereafter make out a like certificate for each councilman; also for assessor, treasurer, and marshal, to those having the highest number of votes for their respective offices, and forthwith deliver the same to them, who shall thereupon be deemed duly elected, and said certificate shall be a sufficient and full authority to said persons, to exercise the powers delegated to them by this act, or sworn or affirmed aforesaid.

**SEC. 28.** No person shall be eligible to the office of mayor or assessor, or councilman, who is not a freeholder, and who shall not have been a resident of the city one year next preceding his election.

**SEC. 29.** In all elections after 1840, a certificate of election shall be made out by the clerk of the common council and delivered to the person duly elected—such election having been first certified to the clerk by the judges thereof, as is provided in the foregoing sections of this act, and in all cases a record of the certificates of said judges shall be kept by the clerk.

#### SPECIFIED POWERS OF THE COMMON COUNCIL.

**SEC. 30.** The common council shall have power to assess annually, against each male inhabitant of the city, who shall be twenty-one years of age, sane, and not a pauper, a poll tax not exceeding fifty cents, and upon all lands, tenements, hereditaments, and the appurtenances thereunto belonging, including all real and personal estate of bodies corporate or politic (excepting school houses, and houses for religious worship, and the lots upon which they were erected) and upon such goods and chattels as they shall from time to time designate, a tax not exceeding one per centum on the cash value thereof, and have the exclusive right, any law or custom to the contrary notwithstanding,

to fix the rates of all licenses to retailers of spirituous liquors, at such sum as they may deem best for the interest of said city, and shall moreover have power to refuse the vending of spirituous liquors altogether, if such be thought advisable for the welfare of the same.

**SEC. 31.** Said council, on or before their stated meeting in February 1841, and yearly, shall determine what goods and chattels, if any, shall be assessed and taxed, and therefore the clerk shall forthwith make and deliver to the assessor a copy of the assessment roll of the previous year, together with a precept under the seal of the corporation commanding him in the name of the common council on or before the first Monday in April next, to make and return to said council a complete list of all persons liable to the poll tax, as aforesaid, and of all lands, tenements, hereditaments, goods, and chattels, liable to be assessed and taxed by the order and determination of the common council, with the names of the owners, a just and fair valuation of all such property.

**SEC. 32.** The assessor shall execute and return such precept according to the command thereof, carrying out said list in alphabetical order, the names of all persons liable for such taxes, and every such assessment shall be made or taken as if made on the first Monday in April annually, from which time the taxes of the then current year shall be a lien upon the property assessed, and a charge against the owners of such property until paid, and which taxes, levied as aforesaid, shall have priority of collection over all other debts whatever.

**SEC. 33.** Should any person feel aggrieved by the valuation placed on his land, or other property by the assessor, he may apply to the common council for redress, at any time previous to the first of June of said current year; and if said common council should think said valuation too high, in proportion to the valuation of other property, or, if said property be not correctly listed, or any mistake made in the assessment, the same shall be corrected by the common council, and right and justice done.

**SEC. 34.** On first Monday in June 1840, and annually thereafter, on the first Tuesday in April, the common council shall determine the rate per centum of the tax so to be levied on the assessment aforesaid, and therefore the clerk shall forthwith make and deliver to the collector an alphabetical list of the persons named in the assessment roll, and the amount of tax of the current year, and of the delinquent taxes of the preceding years chargeable against each, specifying whether the same is a poll or property tax, and if the latter, concisely describing the property, together with a precept under the seal of the corporation, commanding said collector, in the name of the common council to collect the taxes charged in said list, and that he return said precept and list, and pay over to the treasurer the money so collected, on or before the first day of September next.

**SEC. 35.** The collector shall, on or before the first Monday in June, demand payment of the taxes of the persons charged respectively, or at their most usual place of residence, and upon payment there-

of he shall receipt therefor, specifying the year and the amount of such tax.

**SEC. 36.** If any tax shall not be paid on or before the first Monday in September, the collector shall proceed to collect the same by distress and sale of the goods and chattels of the person charged therewith, giving ten day's notice of such sale by written or printed advertisements, put up in three of the most public places in said city.

**SEC. 37.** If no goods or chattels can be found, out of which to make the taxes due from any person as aforesaid, the collector after giving four week's notice thereof in the newspapers printed in the city of Richmond, and by a written or printed advertisement, put up on the council house door, of the city aforesaid, may, on the second Monday of November between the hours of 10 A. M. and 4 P. M. of said day, proceed to sell at public auction before said council house door, the rents and profits of all such lands, tenements and hereditaments as may be found in said city, being the property of said person from whom said taxes are due for the shortest time the same can be sold for and produce the amount sufficient to discharge said taxes and the costs of such sale, provided such time shall not extend beyond seven years; and in case the sale of the rents and profits will not produce the sum required, the collector shall sell the fee simple or entire interest of the owner thereof to the highest bidder for cash in hand to so much of said property where the same can be conveniently divided as will be sufficient to discharge said taxes, and after deducting the amount of taxes and costs aforesaid shall pay the residue, if any there be, to the person thus charged with the taxes.

**SEC. 38.** In case of the sale of the rents and profits of any property, as in the preceding section provided, the collector shall give to the purchaser a certificate of the sale describing the property sold—the period for which it was sold, and specifying the amount of taxes and costs for which the same was sold, which certificate, if all the proceedings were regular, shall vest in the purchaser an indefeasible title to the property for the term therein specified; and it shall be prima facia evidence of the regularity of such proceedings: *Provided however,* That any person interested therein may redeem the property so sold by paying to the purchaser, or the clerk of the corporation, at any time afterwards the amount for which the same was sold, together with fifty per centum thereon, and all taxes thereon which have accrued since such sale and been paid by such purchaser.

**SEC. 39.** In all cases of the sale of the fee simple of any lands, tenements or hereditaments as hereinbefore provided, the collector shall execute to the purchaser a conveyance therefor, which conveyance, providing all the proceedings prior to such sale were regular, shall invest in the purchaser a perfect and indefeasible title in fee simple to the property thus conveyed: *Provided however,* That any person interested therein may redeem the property so sold, by complying with the terms of redemption specified in the preceding act.

**SEC. 40.** The collector besides the cost of printing shall be allowed ten per centum on all taxes collected by distress and sold of either

real or personal property, to be paid out of the proceeds of such sale, as a compensation for such services, and he shall specify in his return of the precept what taxes have been thus collected—describe the property sold and name the purchaser; and in case of the sale of the rents and profits of real estate, specify the amount and time for which the same was sold. He shall also in said return state what taxes, if any, remain unpaid for want of property out of which to make the same, and shall moreover make oath or affirmation that his return is just and true to the best of his knowledge and belief; which oath or affirmation shall be endorsed thereon. He shall also give notice to the council of all omissions or other mistakes in the assessment and tax rolls, which may have come to his knowledge, that they may be corrected.

**SEC. 41.** The common council shall at all times have full power to refund any moneys wrongfully collected as taxes, and to correct any assessment or tax list by adding thereto or subtracting therefrom so as to render the same just and uniform.

**SEC. 42.** The common council in addition to powers herein before granted shall have the management and control of the finances, and all the property both real and personal belonging to the corporation, and shall have power within the limits of said city, to make, establish, publish, alter, modify, amend, and repeal ordinances, rules, regulations, and by-laws for the following and other necessary purposes:

1st. To prevent and punish forestalling and regrating, and to prevent and restrain every kind of fraudulent device and practice within said city.

2d. To prevent, restrain, prohibit and punish, all descriptions of gaming in said city.

3d. To grant license for or prohibit the exhibition of common showmen, and of shows of every kind, or exhibition of natural or artificial curiosities, caravans, equestrian or theatrical performances.

4th. To prevent any riot, disturbance, or disorderly assemblies in said city.

5th. To suppress and restrain disorderly houses and groceries, houses of ill fame, billiard tables, nine or ten pin alleys or tables and ball alleys, and to authorize the destruction and demolition of all apparatus for the purpose of gaming.

6th. To compel the occupant or owner of any grocery, cellar, tallow-chandler's shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous building or place, to cleanse, remove, or abate the same from time to time, as may be necessary for the health, comfort or convenience of the inhabitants of said city, at the discretion of said council.

7th. To direct the location of all slaughter houses, market houses, and houses for storing gunpowder.

8th. To regulate the keeping and storing of gunpowder and other combustibles and dangerous materials, and the use of candles and lights in barns and stables.

9th. To prevent horse-racing, and immoderate riding or driving in any of the streets or alleys in said city.

10th. To prevent the encumbering of streets, side-walks and alleys with carriages, wagons, carts, sleighs, drays, sleds, wheel barrows, boxes, lumber, fire-wood, or any other substance or material whatsoever.

11th. To regulate the times and places of bathing and swimming in the river near the city.

12th. To regulate and punish vagrants, mendicants, street beggars and common prostitutes.

13th. To restrain and regulate the running at large of horses, swine, sheep, goats, and geese, and to authorize the distraining, impounding and sale of the same for the penalty incurred and the costs of prosecution.

14th. To prevent the running at large of dogs, and to authorize the destruction of the same when at large contrary to any ordinance of the city.

15th. To prohibit any person bringing, having or depositing within the limits of the city any dead carcass or other unwholesome substance, and to require the removal or destruction of the same; or any putrid or unsound beef, pork, fish, hides or skins of any kind, by the person on whose premises the same may be found, and on his refusal or default to remove such nuisance, to authorize the same to be removed by some officer of the city.

16th. To compel all persons to keep the snow, ice and dirt from the side-walks, in front of the premises owned by or occupied by them.

17th. To abate and remove nuisances, to prevent or punish obscene exhibitions; and for this purpose the jurisdiction of said corporation is hereby extended to the distance of half a mile beyond the limits of said city in every direction.

18th. To regulate the burial of the dead, and provide for the security and sanctity of public burying grounds.

19th. To provide for the keeping and returning to the council of bills of mortality, and to impose penalties on physicians, sextons and others for any default in this respect.

20th. To regulate gauging, the inspection of flour, the place and manner of weighing and selling hay, of measuring and selling wood, and lime, of measuring or weighing and selling coal, and to appoint suitable persons to superintend and conduct the same, to appoint wood corders and measurers of lumber offered for sale in said city.

21st. To appoint inspectors of flour, beef and pork.

22d. To appoint watchmen and prescribe their duties.

23d. To license cartmen and draymen, and regulate the prices of cartage and drayage.

24th. To regulate the police of said city.

25th. To regulate the weight of bread offered for sale in said city.

26th. To establish, make and regulate the public pumps, wells, cisterns and reservoirs, and to prevent the unnecessary waste of water.

27th. To establish and regulate public pounds.

28th. To establish a market for the sale of provisions and prescribe all necessary regulations for the same.

29th. To provide by insurance or otherwise for the security of the property of the corporation.

30th. To prevent the firing of guns, pistols and prohibit all fireworks, within said city.

31st. To purchase fire engines and to organize fire companies.

32d. To prohibit the selling by retail of any spirituous liquors or ardent spirits to be drank in the shop, store, grocery, out-house, yard, or garden owned or occupied by the person selling the same, without a license from the said common council.

33d. To prohibit the selling, or giving of ardent spirits or other intoxicating liquors to any intoxicated person, child, apprentice, or servant, without the consent of his or her parent, guardian, master, or mistress.

34th. To appoint inspectors of chimneys and fire places, and to require the cleansing of the same.

35th. To appoint and establish a board of health within said city.

36th. To regulate party walls and appoint a city surveyor.

37th. To provide for lighting of said city.

38th. To regulate or prohibit the erection of wooden buildings within said city.

39th. To regulate the size of brick.

40th. To erect a city hall.

41st. To exempt farms and out lots from tax, at the option of the council, or abate the same if thought proper.

42d. To compel the record of town lots before offered for sale.

43d. To restrict the exhibition of stud horses and dunkeys in the streets, and to license the keeping of the same within said city.

44th. And if at any time hereafter, a majority of the citizens of said city shall deem it advisable and so express by their votes at any one election for mayor and councilmen, to bring the whole or any part of either branch of the White-water river into said city by means of pipes or otherwise, to be used in cases of fire, for the cleansing or purifying said city, for culinary or other useful purposes; that then in that case it shall and may be lawful for the mayor and common council to cause the said water to be conveyed to any and every part of said city, at the expense of the corporation thereof, by contract with an individual, or with a company organized for said purpose, or by any other means, not contrary to law.

SEC. 43. The common council shall have power, from time to time to appoint such additional assistant marshals, constables or other officers as they may deem necessary to carry out and enforce all orders, ordinances, by-laws, decrees or regulations of said corporation, to prescribe their duties and regulate their compensation, and may remove all such officers at pleasure.

SEC. 44. The common council may do and perform all things necessary to carry into effect the powers granted to them by this act, and enforce obedience of all rules, ordinances, decrees, by-laws

and police regulations made in pursuance of this act, by imposing penalties for the violation thereof, not exceeding one hundred dollars for any one offence, to be recovered in the name of the city of Richmond, before the mayor of said city, or before any justice of the peace of Wayne township, in an action of debt with costs of suit.

SEC. 45. Every such ordinance, by-law, police regulation or decree imposing any penalty or forfeiture for a violation of its provisions, shall after the passage of or adoption thereof, be published for two weeks successively in one or more of the public newspapers printed in said city, or set up in three public places in said city; and proof of such publication by the affidavit of the printer or publisher of said paper or papers taken before any person authorized to administer oaths, or any other competent proof of such publication shall be conclusive evidence of the legal promulgation or decree in all courts of justice.

SEC. 46. In all actions brought to recover any penalty or forfeiture, incurred by the violation of any ordinance, by-law or police regulation made in pursuance of this act, it shall be lawful to declare in debt generally for such penalty or forfeiture, stating the by-law, ordinance or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence, and the defendant in like manner may plead the general issue to such action, and give all matters in defence in evidence under that issue.

SEC. 47. The first process in any such action shall be a *capias ad respondendum*; and execution may be issued immediately on the rendition of judgment; and all expense incurred by prosecution for the recovery of any fine or forfeiture as aforesaid, shall be defrayed by the corporation; and all penalties and forfeitures, when collected, shall be paid to the treasurer for the use of said city.

SEC. 48. Any person against whom judgment is rendered for any penalty or forfeiture incurred by reason of the violation of any ordinance or by-law of said corporation, who refuses to pay said judgment, or who it appears by the return of the officer on the execution issued on said judgment, has no goods or chattels out of which to make the same, may be committed to the jail of the corporation on the *mittimus* of the officer rendering said judgment, and before whom such execution shall be returned for any period in his discretion not exceeding thirty days: *And provided also*, That said imprisonment shall not extend longer than during sufficient time to discharge said judgment at the rate of one dollar for every day's confinement; and such *mittimus* shall be a sufficient authority for the jailor or keeper of the prison to receive such person, and for the officer in whose hands it may be placed to execute it.

#### EXCLUSIVE JURISDICTION OVER STREETS.

SEC. 49. The common council shall have the sole and exclusive control over all the streets, alleys and lanes in said city, with full power from time to time, to open, grade, pave and improve the same, and

where it is for the improvement of said city to close or vacate any street, lane or alley and open others more beneficial to the citizens generally, and to sell, buy and transfer any and all sites for such streets, lanes or alleys: *Provided however,* That no private property shall be invaded for such purpose without remuneration being first made to the owner, which remuneration shall be assessed as follows, viz: The common council immediately upon granting the prayer of any petition for opening any street or alley as aforesaid, shall select one discreet and judicious freeholder, the party or parties aggrieved shall choose another, and they two shall select a third, none of whom shall be residents of the ward in which said street or alley so to be opened is located; which three arbitrators, chosen as aforesaid, shall within one week after their appointment, each take an oath or affirmation before the mayor or some justice of the peace for Wayne township, that they will true valuation make of all damages done or to be done, to the property of individuals through which said street or alley so to be opened shall pass, and a true and just award make in writing, returning the same to the mayor or clerk of the council from under their or any two of their hands and seals, within at least ten days after their appointment, Sundays excepted, which award shall be final: *Provided however,* That no street or alley shall be opened as aforesaid, unless a majority of the citizens whose property shall bound thereon shall petition the common council for that purpose; and for the purpose of preventing any misunderstanding, it is hereby expressly declared that no portion of the territory within the limits of the corporation shall be included in any road district, nor shall the citizens nor the property of said city be subject to taxation for county or state road purposes, any thing in the laws of this state to the contrary notwithstanding.

**SEC. 50.** The common council shall have full power to erect a city prison for the use of the corporation, and until such prison shall be erected, the jail of Wayne county shall be used for said purposes.

**SEC. 51.** On the organization of the common council as provided in this act, all laws and parts of laws, by which the borough of Richmond has been incorporated, and all laws coming within the purview of this act, shall and the same are hereby repealed; and said common council shall thereupon have full authority to demand, recover and receive all books, papers, moneys and effects, together with all species of property belonging to the existing corporation of and from the burgesses and council, and all other officers thereof, which books, papers, moneys and effects, together with all species of property belonging to the corporation at the time of such organization of the common council, shall vest in the city of Richmond as a corporate body organized by virtue of this act.

**SEC. 52.** The proceedings of the burgesses and council of the borough of Richmond are hereby legalized: *Provided however,* That the government of said city shall be administered by the present authorities until the first Monday in May next.

**SEC. 53.** And whereas the late burgesses and borough council of the said borough of Richmond upon the unanimous request of the ci-

tizens of said borough in primary meeting assembled, subscribed in their corporate capacity for a limited number of shares in said primary meeting named, in the stock of the Richmond and Brookville canal, to be paid by a tax or taxes to be levied of the goods and chattels, lands and tenements of said citizens or any other of their property liable for borough taxes: and whereas, lest doubts should arise that the said burgesses and council, though instructed as aforesaid, have exceeded the authority granted to them by the present borough charter in subscribing for the same; therefore, be it enacted by the authority aforesaid, that the said subscription shall be legal to all intents and purposes, and that the amount of shares so subscribed shall be a lien on the taxable property of the citizens, and that the taxes heretofore assessed, or that hereafter shall be assessed for the payment of said shares of stock subscribed as aforesaid, and shall be collected according to the mode pointed out in the present charter for the collection of taxes; and furthermore, that all the ordinances passed heretofore by the burgesses and borough council of the borough of Richmond, and not already repealed by said borough council, and not contrary to the constitution and laws of this state, shall be and they are hereby legalized.

**SEC. 54.** This act to be in force from and after its passage, and shall be deemed and taken to be a public act, and shall be favorably construed for every beneficial purpose: *Provided however,* That the legislature by a vote of two-thirds of both branches thereof may at any time, alter, amend or repeal the same.

## CHAPTER VII.

### An act to incorporate the Greensburgh and Vernon Turnpike Company.

APPROVED, FEBRUARY 18, 1840.

**SEC: 1.** Be it enacted by the General Assembly of the State of Indiana, That James Blair, Nathaniel Robbins, Ira Grover, John Burk, Seth Lowe, Adam Keller, Justice Rich, Samuel Reed, Edward Walker, and James S. Smith, and their successors in office, duly elected as hereinbefore directed, are hereby constituted a body politic and corporate, and by the name and style of the Greensburgh & Vernon Turnpike company, shall be able and capable in law and equity, to sue and be sued, plead and be impleaded, answer and be answered unto, in any and all courts whatsoever; to make and use a common seal, and the same to alter or change at pleasure; and shall be able in law to make contracts, and enforce the same, and to make and enforce the necessary by-laws, rules and regulations, to enable them to carry into effect,

the provisions of this act, and the objects contemplated by the same, not inconsistent with the laws of this state.

**SEC. 2.** The capital stock of said corporation shall be two hundred thousand dollars divided into shares of fifty dollars each, with power to increase the capital stock if necessary to accomplish the objects herein contemplated.

**SEC. 3.** The directors in this act named or a majority of them shall meet, at such time and place, as they may agree on, and organize said corporation, by electing one of their body president, and after such organization, any five of said board shall form a quorum to do business.

**SEC. 4.** The corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other persons and officers necessary to carry into effect the provisions of this act. They shall keep a journal of their proceedings, in which shall be entered all by-laws and regulations, and all orders for the payment of such allowances as may be made to their officers, and all others in their employ; which journal and proceedings shall be signed from time to time by the president. They may sit on their own adjournments, or on the call of the president, provided that when the president is absent, they may appoint, pro tempore, and shall have power to fill all vacancies that may happen in their own body.

**SEC. 5.** The corporation shall cause books to be opened for the subscription of capital stock, at such time and at such places as they may choose, due notice of which shall be given in some public newspaper in this State; in each of which books the following entry shall be made:

"We, the undersigned, promise to pay the sum of twenty-five dollars for each share of stock set opposite our names, in such manner and proportions, and at such times as the president and directors of the Greensburgh and Vernon Turnpike Company may direct.

Witness our hands, this              day of              ."

**SEC. 6.** That it shall be lawful for all persons of lawful age, for the agent of any corporate body, to subscribe for any amount of the capital stock; and the said corporation may by agent offer for sale in any other state, any amount of stock, upon such terms and conditions as may be thought advisable; and they shall have power on their own credit, to borrow money upon such terms as may be agreed upon by the parties. The corporation may require such sum of money to be paid at the time of subscribing, not exceeding five dollars on each share, as they may think proper; but the amount required shall be made known in the notice for opening the books; and any future payments on the stock, shall be under the control of the corporation.

**SEC. 7.** That as soon as one thousand shares are subscribed for, and five dollars paid on each share, it shall be the duty of the corporation to give four weeks notice thereof, in some public newspaper of this State; and in such notice, appoint a time and place for the stockholders to meet and elect seven directors, who shall be stockholders and citizens of this state; which election shall be by and conducted

under the superintendence of one inspector and two judges, appointed by the stockholders present; and the person having the highest number of votes shall be declared duly elected; in all elections, each share, from one to five, shall entitle the holder to one vote, and in like proportion for any number of shares held by any individual, to be given by the person owning the same, or by one of any partners, or by any trustee, or guardian, or administrator, or executor, or by the agent of any incorporation; or any person having a right to vote, may vote by proxy.

**SEC. 8.** That it shall be the duty of the directors elected as aforesaid, and those elected at all subsequent elections, to elect one of their body to be president. The president and directors thus elected, shall continue in office until the next annual election, and until their successors are elected and qualified.

**SEC. 9.** That all elections after the first, shall be held on the first Monday in May, annually, under the direction of the stockholders present, of which election notice shall be given; but should no election be held on the day appointed by this act, or by the directors of the first election, it shall be lawful to hold the election on any other day subsequent thereto.

**SEC. 10.** Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held; they shall be signed by the president, and countersigned by the clerk. The stock shall be transferred on the books of the corporation only, but such stock shall be at all times held by the corporation for any dues from the holder thereof to the corporation, or for any sums that may thereafter become due on a contract prior to such transfer.

**SEC. 11.** The corporation shall have power to call for such portions of the stock subscribed, not exceeding twenty-five per cent. every six months, as they may think proper; to be paid at such time and place, as they may designate, by giving sixty days notice thereof in some public newspaper in this state, or by giving written notice to the stockholders, in which shall be specified the amount demanded on each share, and the time and place of payment; and if any stockholder should refuse or neglect to pay such requisition within ten days after the time named for such payment, the corporation may bring suit against such delinquent for the amount due and called for, in any court of competent jurisdiction, and recover the amount with interest thereon at the rate of six per centum per annum; and if the amount cannot be made on execution, or if such delinquent is out of the state, then the corporation may, by an order on their books, declare such stock forfeited to the corporation with the amount paid thereon; and no delinquent shall have the right to vote for directors, or receive any dividend on his or her stock, until the corporation is fully satisfied. The corporation shall require of all officers and others in their employ, bonds with security, as they may think proper, for the faithful performance of their respective duties.

**SEC. 12.** The corporation shall have full power, by themselves or agents, from time to time to examine, survey, and locate the route for

a turnpike road, commencing at the town of Greensburgh, in Decatur county, and running on the best ground for the interest of the company and the convenience of the public, via Westport in Decatur county, to Vernon in Jennings county, with full power in all cases to diverge from a direct line, when more favorable ground can be had for the construction of the road, or the interest aforesaid may require it; the said road to be not more than eighty feet wide.

**SEC. 13.** And for the purpose of making such examination and location, it shall be lawful for the corporation by their agents and persons in their employ, to enter upon any land to make surveys and estimates, and for the purpose of searching for stone, gravel, wood, or other materials necessary for the construction of said road. But no stone, gravel, wood, or other materials shall be taken away from any land, without the consent of the owner thereof, until the rate of compensation shall be ascertained and paid.

**SEC. 14.** It shall be lawful for the corporation, either before or after the location of any section of the road, to obtain from the person or persons through whose land the same may pass, a relinquishment of so much of said land, as may be necessary for the construction and location of the road; as also the stone, gravel, timber, or other materials that may be obtained from any other land near thereto: and it shall be lawful for said corporation to receive by donation, gifts, grants, or bequests, land, money, labor, property, stone, gravel, wood, or other materials, for the benefit of said corporation. And all such contracts, relinquishments, donations, gifts, grants, and bequests, made and entered into in writing by any person or persons capable in law to contract, made in consideration of such location, and for the benefit of the corporation, shall be binding and obligatory, and the corporation may have their action at law in any court of competent jurisdiction, to compel the observance of the same: *Provided*, That all such contracts, relinquishments, donations, gifts, grants, and bequests, shall be fully and plainly made in writing, and signed by the party making the same.

**SEC. 15.** That in all cases where any person through whose land the road may run, shall refuse to relinquish the same, or where a contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the county where such difficulty may occur, that such facts do exist, and such justice shall thereupon summon the owner of such land to appear before him on a particular day within ten days thereafter, and shall appoint twelve disinterested persons of the neighborhood, who shall after taking an oath faithfully and impartially to assess the damages, if any, view the land and materials, and after taking into consideration the advantages the road may be to the same, and shall report thereon whether such person is entitled to damages or not, and if so, how much, and shall file said report with such justice; whereupon said justice shall enter judgment thereon, unless for good cause shown; and in case either party should show sufficient cause why judgment should not be entered, the justice may grant a review of the premises either with or without cause: *Provided*, That either party may at any stage

of the proceedings, appeal to the circuit court of the proper county, as in other cases, and such court shall appoint reviewers as above directed, who may report at that or the succeeding term, in the discretion of the court, and the judgment of the circuit court shall be final.

**SEC. 16.** And in all cases when the owner or owners of such land or materials shall be minors, insane persons, or reside out of the county where such land may be, such justice shall cause three notices of the application made, and the day fixed for the appointment of reviewers, to be posted up in three of the most public places in the county, and if no person attend on the day named in said notices, said justice shall adjourn the same until that day three weeks, at which time he shall proceed as if such person or persons had been duly notified to attend; and on such judgments being rendered, and the corporation complying therewith, by the payment of costs or damages awarded against them, the corporation shall be seized of the lands or material, costs shall be allowed or awarded against either party at the discretion of the justice.

**SEC. 17.** That if it should be found necessary and advantageous to the location and construction of said road, the corporation shall have the right to lay the same along and upon any state or county road: *Provided however*, before such location shall be made, the corporation shall make application to the county commissioners or board of justices of the proper county for such right, and the said commissioners or board of justices are hereby vested with powers to grant the same by an order entered on their record.

**SEC. 18.** That when said corporation shall have procured the right of way as herein provided, they shall be seized of the right to said land, and shall have the sole use and occupancy of the same during the time the same shall be occupied for said road; and no person, body corporate or politic, shall in any way interfere therewith, molest, disturb or injure any of the rights and privileges hereby granted, or that would be calculated to detract from or affect the profits of said corporation.

**SEC. 19.** The corporation shall commence the construction of said road any time within six years, and from time to time construct so much towards the point of destination, as may be within the ability and interest of the company, and shall complete it within twelve years from the commencement: *Provided*, That if the road should not be completed within the time aforesaid, the general assembly may for good cause shown, give further time to complete the same.

**SEC. 20.** And the said company is hereby authorized to construct a M'Adamized or clay turnpike road on said route, as they may deem proper, and for the interest of the company, and the convenience of the public; and the corporation may erect toll gates, not to exceed one for every eight miles, on said road or any part thereof, that may be in a sufficient state for travel, although the whole may not be finished or made fit for travel, and charge and collect toll on the same; and they may charge tolls on the same when it is graded and bridged only.

**SEC. 21.** Half yearly dividends of so much of the profits as the corporation may deem expedient, shall be made on the first Mondays of April and September annually, unless the directors fix on a different day, and paid to the different stockholders as soon thereafter as it can with convenience be done; but no dividend shall be made to a greater amount than the net profits, after deducting all expenses; and the corporation may reserve such proportion of the profits as a contingent fund, to meet subsequent expenditures, as they may deem proper.

**SEC. 22.** That if any person or persons shall wilfully and knowingly injure or obstruct said road or any part thereof, or shall break, destroy, or deface any work, edifice, or toll house thereto belonging, such person or persons so offending, shall pay to the corporation three times the amount of the damages actually done, with costs of suit, to be recovered by the corporation before any court having competent jurisdiction: *Provided*, That actions commenced by the corporation for the recovery of damages, and all actions commenced against such corporation for the recovery of damages, shall be commenced within six months from the time such cause of action accrued, and not after.

**SEC. 23.** It shall be lawful for the board doing county business for each and every county through which said road may pass, for and the stock on behalf of said county, to authorize by an order as much of to be taken as they may think proper.

**SEC. 24.** It shall be the duty of the corporation to cause a statement of the affairs of the company to be made and exhibited to the stockholders at every annual election, or at any other general meeting of the stockholders.

**SEC. 25.** That if any person, using said road, shall with intent to defraud said company or evade the payment of tolls, pass through any gate or bars, or along any other grounds near to any turnpike gate which shall be enclosed, or shall practice any fraudulent means with intent to evade or lessen the payment of such tolls, or if any person shall take another off said road with intent to defraud said corporation, each and every person concerned in such fraudulent practice, shall for every such offence forfeit and pay to the corporation the sum of five dollars, without any stay of execution, to be recovered with costs of suit, in an action of debt at the suit of the corporation before any justice of the peace of the county.

**SEC. 26.** The company shall put up a post or stone at the end of each mile, with the number of miles from where the road may be commenced, fairly cut or painted thereon, and also in a conspicuous place near each gate, shall be placed a board with the rates of toll fairly painted thereon, and all other necessary matter in relation to direction.

**SEC. 27.** That if any toll-gatherer on said road shall unreasonably detain any passenger after the toll has been paid or tendered, or shall demand or receive greater tolls than shall by the corporation be allowed, he shall for every such offence forfeit and pay a sum not exceeding ten dollars, to be recovered before any justice of the peace having jurisdiction, within twenty days thereafter.

**SEC. 28.** The corporation shall cause to be kept a fair account of the whole expense of making and repairing said road, or any section thereof, with all incidental expenses; and also a fair account of the tolls received; and the books of said corporation shall be always kept open for the inspection of any stockholder or creditor of said company.

**SEC. 29.** That the said corporation may in all contracts for the construction of any section of said road, require the contractor or contractors, to receive the one-tenth of the amount of such contract in the stock of said company in part payment of said contract.

**SEC. 30.** That if said road after its completion, shall be suffered to go into decay, or to be impassable for one year, unless when the same is repairing, this charter shall be taken and considered as forfeited.

**SEC. 31.** The stockholders in said corporation shall be liable in a just ratio or proportion of their amount of stock held or subscribed, for all debts incurred or created during the said possession of said stock, and in case of sale or transfer of said stock from the original subscription, it shall not release the original subscriber in his just proportion, from any debts incurred or created, during his, her or their possession of said stock. The legislature reserves the right hereafter by a vote of two-thirds of each house to alter, amend or repeal this charter.

## CHAPTER VIII.

An act to incorporate the Indiana General Baptist Seminary in the county of Vanderburgh,

[APPROVED JANUARY 31, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That John B. Stinson, Jesse Lane, Benoni Stinson, Charles D. Bourne, William Depriest, Joseph Lane, and Charles S. Weaver, and their successors in office, be and they are hereby constituted and declared to be a body corporate and politic, by the name and style of "The Indiana General Baptist Seminary," and by that name they shall have perpetual succession. This body corporate or board of trustees shall have power to appoint a faculty in said seminary, consisting of a president, professors and tutors, as the necessities of the institution may demand; and the said faculty by and with the approbation of the board of trustees, shall have power to grant and confer such degrees, in the liberal arts and sciences as are usually conferred and granted in other seminaries in the United States: *Provided*, That no degree

shall be conferred or diplomas granted except to students who have acquired the same proficiency in the liberal arts and sciences as is customary in other seminaries in the United States.

SEC. 2. The board of trustees shall also have power to contract and be contracted with, to acquire, hold, enjoy and transfer property to an amount sufficient for all the purposes of the seminary, real or personal in their corporate capacity; to make, have and use a common seal, and the same to alter at pleasure; to sue and be sued, plead and be impleaded, in any court of law or equity; to receive and accept of any gift, grant, donation, bequest or conveyance, by any person, company or corporation, of any property real or personal, and to hold, enjoy and dispose of the same as may be deemed best for the interest of said seminary; to make, ordain, establish and execute such by-laws, rules and ordinances not inconsistent with the laws and constitution of the United States or of this state, as they shall deem necessary for the welfare of said institution; and to do all other things necessary in pursuance thereof for the prosperity of said institution.

SEC. 3. The following shall be the fundamental law of said institution: The board shall never consist of more than twelve members, of whom six when regularly convened, shall constitute a quorum for the transaction of business. The board shall at their first meeting elect by ballot five trustees in addition to the seven hereby appointed, who, with those constituted trustees by this act, shall form a full board for the present, and divide themselves into three equal classes, the first of which shall go out of office at the expiration of the first year after this enactment, the second at the close of the second year in like manner, the third at the close of the third year, and the vacancies to be filled immediately and annually, so that ever afterwards one third of said trustees shall go out of office annually: *Provided however,* That the same trustees may be re-elected annually.

SEC. 4. The annual election for trustees shall be conducted as follows, to wit: Three weeks' notice shall be given by the trustees by publication in the Evansville Journal, a public newspaper printed in the town of Evansville in this state, of the time and place of such election. The contributors to said seminary, who may attend said meeting, shall then proceed to ballot for four trustees, and any person having a right to vote not attending, may vote by proxy. Each contributor shall be entitled to one vote for every ten dollars subscribed and actually paid in to their treasurer, until such subscription shall exceed thirty dollars, and one vote for each fifty dollars subscribed and actually paid in afterwards; and the four persons receiving a majority of votes shall be declared duly elected.

SEC. 5. The board shall have power at any time at any of their meetings, to fill all vacancies that may occur, from any cause whatever; the first meeting of said board shall be at the court house or some other suitable place in the town of Evansville, on the first Monday in May next, at which time said board shall fix the time and place for their future meetings.

SEC. 6. The board at their first meeting shall appoint a president, a secretary, and a treasurer, who shall record all their proceedings in a book or books to be kept by them for that purpose. It shall be the duty of the president to sign all drafts made upon the treasury, and in his absence to be signed by the secretary.

SEC. 7. That said board shall have full power to locate said seminary upon any lands in said county that they may purchase or otherwise procure: *Provided*, That said corporation may own and hold real estate for the use, accommodation and benefit of said seminary to the value of twenty-five thousand dollars, but all over that amount shall within two years after the same may be acquired be sold, and the proceeds thereof loaned or otherwise used for the benefit of said seminary, and not be re-invested in real estate, the amount thereof that it may continue to own, being limited as aforesaid.

This act to take effect and be in force from and after its publication in the Evansville Journal: *Provided however,* That the legislature reserves to itself the right to revise, alter, amend or annul this charter at any time hereafter.

## CHAPTER IX.

An act to incorporate the Governor's Guards of Gentrysville in Spencer county.

[APPROVED FEBRUARY 24, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That David Wood, William Ketcham, George Hopkins, Daniel Burkhardt, and J. C. Richardson, and their associates and successors be, and they are hereby constituted a body corporate by the name and style of "Governor's Guards of Gentrysville," and by that name shall have perpetual succession, and full power to contract and be contracted with, sue and be sued, plead and be impleaded in any court of law or equity, to make and use a common seal, and the same to alter at pleasure; they shall have full power to elect their own officers, to make, ordain and establish such by-laws and rules as they may deem necessary and proper for the good government of said company, not inconsistent with the constitution and laws of the United States and of this state, and may do all other acts in pursuance thereof, necessary for the prosperity of said company.

SEC. 2. The officers of said company shall be a captain, a lieutenant, and an ensign, who shall be commissioned by the governor of the state; and if a majority of said company shall so determine, after their

number shall amount to sixty men rank and file, they may elect a second lieutenant, who shall be commissioned as aforesaid; all resignations shall be made to the governor of the state.

SEC. 3. All non-commissioned offices shall be elected by the company, and shall hold their offices during good behavior.

SEC. 4. It shall be the duty of the commandant to call said company out for parade and military improvement at least three times in each year, and oftener if the company shall so direct by their by-laws, and the discipline of said company shall conform as near as practicable to that of the United States army.

SEC. 5. It shall be the duty of the commandant of said company annually, on or before the first Monday in May, to appoint a company court martial, to consist of a president and two members, whose duty it shall be to convene at least once in each year, at such time and place as said commandant shall direct. The president of said court martial shall administer an oath to each of the members of said court, and one of said members shall administer an oath of office to the president of said court.

SEC. 6. It shall be the duty of said court martial to hear and determine the sufficiency of any excuse that may be rendered by any officer, non-commissioned officer, musician or private for non-attendance at any parade, muster or drill pursuant to the provisions of this act or of any of the by-laws of said company, or for any deficiency in uniform or equipments, and assess such fine or fines as may be authorized by the laws of said company.

SEC. 7. A majority of said company may expel a member for disorderly or ungentlemanly conduct while on parade; and it shall be the duty of the commandant to report all delinquents to said court martial.

SEC. 8. All fines assessed by said court martial may be sued for and recovered in an action of debt before any justice of the peace having jurisdiction thereof, and all such fines when collected by said company, shall be for the exclusive use and benefit of the same.

SEC. 9. All persons who shall serve for the full term of seven years as a member of said company, from and after their enrollment, shall thereafter be exempt from militia duty in this state, except when called on in case of insurrection or invasion.

SEC. 10. Said company shall be subject to the civil power, and ready whenever called on by the same, to turn out for the purpose of aiding in the suppression of all riots and insurrections which may happen within said county of Spencer.

SEC. 11. That after the organization of said company, and so long as the same shall remain in active operation, the members thereof shall not be required to perform any other militia duty in time of peace.

SEC. 12. The provisions of this act shall be extended to any other company or companies in said county of Spencer that may organize under its provisions, and such company or companies, upon complying with the provisions of this act, may, by such corporate name as they shall adopt by their by-laws, exercise all the rights, privileges, immuni-

ties and exemptions that the "Governor's Guards of Gentrysville" are authorized to exercise by this act.

SEC. 13. This act to take effect and be in force from and after its passage; and the legislature reserves the right at any time hereafter to alter, amend or repeal this charter.

## CHAPTER X.

An act to incorporate the Whitelick Commercial Company.

[APPROVED, FEBRUARY 24, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Hiram Mathews, Mencher L. Cox, Barclay Burris, Jonathan Hunt, Samuel Stevenson and Simon Moore, together with all other persons who are or may become stockholders pursuant to this act, shall be, and they are hereby declared and constituted a body corporate and politic to all intents and purposes, by the name and style of "The Whitelick Commercial Company," by which name they and their successors and assigns, shall continue in existence for the term of twenty years, and be able and capable in law and equity to sue and be sued, to plead and be impleaded, defend and be defended, answer and be answered unto in any court of competent jurisdiction, to make and use a common seal, and the same to alter, change or renew at pleasure; and they and their successors as a body corporate and politic by the aforesaid name, shall be competent and capable of purchasing, holding, using, and conveying any property whatsoever real or personal, which may be hereafter purchased by said company for the purpose of prosecuting the business of their association.

SEC. 2. The capital stock of said company shall not be less than ten thousand dollars, which may be increased to twenty thousand dollars, in shares of fifty dollars each, and the stockholders shall be subject to the loss or gain of said investment in proportion to their respective interest.

SEC. 3. All investments made shall not be for a shorter term than five years, and no proceeds shall be drawn from said institution until the close of the said term of five years from the time each member becomes a stockholder by him, only for his loss or his share of the necessary expenses of said company.

SEC. 4. The business of said company shall be conducted by a board of five directors, any three of whom shall form a quorum, who shall be chosen annually by the stockholders, and they shall have pow-

er to elect a president of their own body, who shall preside at the meetings of the said board of stockholders, and have power to sign all documents on behalf of the company, and it shall further be his duty to call a meeting of the stockholders by order of the directors when occasion shall require.

**SEC. 5.** The directors shall have power to collect all debts due the company, and to hire the necessary clerks and assistants in transacting the business of the institution, and in fixing the salary of the president, all of which they shall have power to pay out of the company's funds, together with all expenses of the institution, of which they shall keep a fair record, and produce it together with the situation and standing of the institution to each annual meeting of the company.

**SEC. 6.** The directors shall not in any exporting or importing transaction exceed the amount invested in stock, unless sanctioned by two-thirds of the stockholders.

**SEC. 7.** When a vacancy shall occur in the board of directors, the stockholders shall fill said vacancy by an election for that purpose.

**SEC. 8.** It shall be the duty of the stockholders at their annual meetings, to fix on the price per day for the services rendered by the directors, of which they shall keep an explicit account and produce it to each annual meeting, which amount they may allow from the funds of the institution.

**SEC. 9.** Each share shall privilege a stockholder to one vote until they amount to five.

**SEC. 10.** The mercantile concerns of said company shall be located in the town of Mooresville until otherwise directed.

**SEC. 11.** The annual election of the stockholders of said company shall be held on the first Monday in January, 1841, and annually thereafter; and the board hereby appointed by the first section of this act, shall continue in office until the said first Monday in January 1841, and until their successors are duly elected.

**SEC. 12.** The books for the subscription of stock shall be kept open thirty days from and after the first day of February 1840; and should there be a larger amount of stock subscribed than required by this act, then and in that case, those having the largest number of shares shall have them stricken off until the amount shall be reduced to the sum in this act specified.

**SEC. 13.** The stockholders of said corporation shall be personally liable for the debts thereof, and no transfer of stock shall avoid liability for debts due, or liability incurred at the time of such transfer.

**SEC. 14.** This act to take effect and be in force from and after its passage; the legislature reserving the right to alter, amend or repeal this charter at any time hereafter.

## CHAPTER IX.

An act to amend an act entitled an act to incorporate the town of Jeffersonville.

[APPROVED FEB. 22, 1840.]

**Sec. 1.** Be it enacted by the General Assembly of the State of Indiana, That so much of said act incorporating said town of Jeffersonville as vests in the mayor of said town jurisdiction and power in both civil and criminal cases, be and the same is hereby repealed.

**Sec. 2.** It shall be the special duty of the mayor at all times to see that the ordinances of the town and the criminal laws of the state are duly observed and enforced, and that all officers thereof promptly and properly discharge their respective duties; he shall suppress all riots and disorderly meetings, arrest all felons and other offenders in the town, in the same manner as other peace officers, and take them before any court having competent jurisdiction for trial, and may command all necessary assistance therefor; he shall sign all commissions, licenses, and permits granted by authority of the town; he shall superintend all public works of the town, giving estimates and reporting progress and expenses; he shall see that the taxes are regularly collected and paid over, that all fines and forfeitures are duly collected and properly applied, and do and perform all other duties as from time to time may be required of him by law, or the ordinances of the town, or may pertain to the office of mayor.

**Sec. 3.** On the first Monday of June next, there shall be elected a town recorder, by the qualified voters thereof, for the term of three years; the recorder to have the same qualifications as the mayor; the mayor shall certify to the Governor the name of the person having the highest number of votes for recorder; and the Governor shall issue to him a commission as such town recorder, for three years and until his successor shall be elected and qualified; he shall take an oath or affirmation that he will support the constitution of the United States and of the state of Indiana, and faithfully and honestly and to the best of his skill and ability discharge the duties of his office; the recorder shall execute bond to the state in the penal sum of one thousand dollars, with security to be approved of by the clerk of the Clark circuit court, conditioned for the faithful performance of his duties and the payment of all the money that may come into his hands by virtue of his office, to the party entitled thereto, which bond shall be filed with the clerk of said Clark circuit court. In case of a vacancy in the office of recorder, the mayor and common council shall appoint a time for, and give twenty days notice in a newspaper of the town, or by advertisement at three of the most public places in the town of the election of a recorder to fill the vacancy, who shall be commissioned by the Governor in the same manner and for the term heretofore mentioned.

**SEC. 4.** The recorder shall have the same jurisdiction and power in both civil and criminal cases which justices of the peace have, if the cause of action or complaint shall have arisen, or the defendants or one of the defendants shall be found in the town; he shall have jurisdiction in all cases for the violation of any by-law or ordinance of the mayor and common council, and shall issue the proper process for carrying the jurisdiction into effect; he shall be governed by the same laws, entitled to the same fees, and removed from office in the same manner as justices of the peace; he shall keep a fair docket of all his proceedings, which in all respects shall have the same force and effect as the docket of a justice of the peace, and a certified copy therefrom, under the seal of said recorder, shall be competent evidence in any court in this state; and the parties to any suit or complaint before him shall have the same right to change the venue, to a trial by jury, and to appeal as if the suit was pending before a justice of the peace; as soon as said recorder shall be qualified, the docket and files of the present mayor of the town of Jeffersonville shall be delivered to him, and he shall hold and act upon the same as a justice of the peace holds and acts upon the docket of his predecessor in office.

**SEC. 5.** The mayor and common council of said town shall have exclusive jurisdiction within said town, to grant licenses to tavern keepers, inn keepers, retailers of spirituous liquors by a less quantity than a quart, keepers of ale, beer, and porter houses, cellars and shops, and all other houses of public entertainment; shows, menageries, theatricals, and all other exhibitions for money or other reward, auctioneers, keepers of ferries from said town across the Ohio river to the opposite shore, and hawkers and pedlars: *Provided*, that one hundred dollars shall be the maximum of any license for one year, and five dollars for one day and night.

**SEC. 6.** Upon the petition of two thirds of the resident owners of any square or squares of lots fronting on any street, lane, or alley in said town, the mayor and common council shall have the power, if they deem it expedient, to cause said street, lane or alley, to be graded, paved or McAdamized in front of said square or squares, as to them may seem right and proper; and the expense of either or all of said grading, paving or McAdamizing shall be paid by the owner of the lots fronting on said street, lane or alley, in proportion to the number of feet in front each may have on said street, lane, or alley, the town paying for grading, paving, or McAdamizing all intersections of streets, lanes or alleys; that after the mayor and common council shall have fixed upon the grade, or the manner in which the paving or McAdamizing shall be done, the owners of property shall have the privilege of making said grading, paving or McAdamizing, in front of their property, but if they do not apply for and proceed to do said work, as required by the mayor and common council, then the same shall make a pro-rata assessment of the price of the works due, among the owners of lots fronting on said street, lane, or alley, according to the before mentioned terms, which assessment shall be given to the town collector to be by him levied and collected as other taxes; that said collector after receiving said assess-

ment shall levy upon the lot or lots of ground upon which assessment is made, and after giving notice of the time and place of sale as in other cases of sales for taxes, shall sell said lot or lots, or so much thereof as may be required to pay the amount of said assessment and costs, levying, advertising, and sale, dividing the same as to him may seem most advantageous for all concerned, and shall execute and deliver to the purchaser or purchasers a certificate for the portion of ground sold, which certificate on being recorded in the recorder's office of Clark county within twelve months from the date thereof, shall vest in the holder thereof all right, title and claim of, in, and to the property therein conveyed: *Provided*, however, that the former owner may within two years after the date of said sale, redeem said property under said sale by paying to the purchaser or holder of said certificate the amount of said assessment and costs of levying, advertising and sale, and one hundred per centum per annum thereon from the date of said sale.

**SEC. 7.** The marshal shall perform all the duties in the recorder's court that he is now required to perform in the mayor's court, and his powers and duties shall be as specified in the act to which this is an amendment.

**SEC. 8.** That at the future elections for town officers it shall be necessary to keep separate polls for the candidates for each office.

**SEC. 9.** That all fines accruing before the town recorder under the penal laws of this state, shall be applied to the Clark county seminary, and the recorder shall report the same as justices of the peace are required to do, and under the same penalties for failing so to do, and all fines under the ordinances of the town shall be paid to the town treasurer for the use and benefit of the town.

**SEC. 10.** In addition to the powers and authority heretofore given to the mayor and common council of said town, they shall be and are hereby vested with full power and authority to prohibit by ordinance with suitable penalties, whatever may conduce to endanger, disturb, or injure the health, person, or property of the citizens of the town: *provided*, said ordinances are not repugnant to the constitution and laws of the state of Indiana.

## CHAPTER XII.

An act to amend an act entitled an act to incorporate the town of Indianapolis, approved February 17th, 1838.

[APPROVED FEBRUARY 22, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That at the next election for common councilmen, the common councilmen for the first, third, and fifth wards shall be elected for the term

of two years, and those in the second, fourth, and sixth wards shall be elected for one year, and at the succeeding election the common council for the second, fourth, and sixth wards shall be elected for two years. And after said election, said first, third, and fifth wards, and said second, fourth, and sixth wards shall alternately, every other year elect for two years, so that only one half of said common councilmen shall go out of office annually.

**SEC. 2.** Whenever any person shall be desirous of changing any, or vacating any street or alley in the town of Indianapoisis, he shall first apply to the board of common council, and if they refuse said application, said street or alley shall not be vacated or changed, but if said board shall be of opinion that said street or alley should be vacated or changed, said applicants may petition the general assembly to vacate or change said street or alley: *Provided*, that each application for such vacation or change of such street or alley shall be published at least three weeks in some newspaper published in the town of Indianapolis, specifying the vacation or alteration intended to be petitioned for.

**SEC. 3.** The printed orders and ordinances of the common council filed in a book kept for that purpose, by the clerk thereof, shall be *prima facia* evidence that the same has been adopted according to law.

**SEC. 4.** The members of the common council shall each be allowed the sum of twenty-four dollars per annum for their services: *Provided*, That should any member absent himself from any meeting of the board after having notice thereof without rendering sufficient excuse to the board for such absence, one dollar of his said pay shall be withheld for each meeting he may be so absent.

**SEC. 5.** That the common council shall have authority to levy a tax not exceeding twenty dollars per day on license to sell at auction in said town any goods, wares or merchandize which shall not have been previously offered for sale in said town at least three months: *Provided*, That sales at auction by executors, administrators or public officers in discharge of their duties as required by law, and all articles of the growth or manufacture of Marion county, and all articles of household property, horses, cattle, hogs, sheep, or other live stock, farming utensils, which may be offered at public sale, shall be permitted without such license. And should any person or persons sell or cause to be sold at auction as aforesaid (other than as above excepted,) any goods, wares, or merchandize without having first obtained such license, he, she, or they shall for each offence forfeit and pay the sum of thirty dollars to be recovered in an action of debt before the president of the common council: *Provided*, nothing in this act shall be so construed as to affect the sales of any goods, wares or merchandize being sold at any regularly licensed auction room by any auctioneer of said city, so licensed as aforesaid.

**SEC. 6.** No member of the common council shall be eligible to hold any office of trust or profit, the appointment to which is vested in the common council.

**SEC. 7.** *That no appropriation or allowance of any of the funds of the corporation shall be made without the consent of at least four members, the president and five members being present and voting at the time of making such appropriation or allowance.*

**SEC. 8.** *That the senior member of the common council shall on the death or resignation of the president, have, hold, and execute, the several offices annexed by the act of incorporation to which this is amendatory, to the president until another president is appointed by the common council, which appointment shall be made without any unnecessary delay. And in case of the casual absence of the president, the senior member of the common council shall fill the office of president *pro tem.*, and be in every respect the president during such absence of the president.*

**SEC. 9.** *That no person shall be deemed eligible to the office of common councilman, unless he shall be a householder within the bounds of said incorporation, and be at the time of his election a resident of the corporation proper, and in case of the removal of the president or common councilman, out of the inlots of said town his office shall thereby be vacated, and the removal of a common councilman from the bounds of the ward for which he was elected shall vacate his office, and a majority of the remaining common councilmen shall proceed to another election to fill the vacancy, in the ward vacated. The vacancy in the office of president shall be filled by the common councilmen until the next annual election, but the person by them appointed shall not be one of their own number.*

**SEC. 10.** One judge of the election in each ward or one of the clerks thereof only shall be necessary to be present to count and compare votes given at any election of officers of said corporation and to sign certificates for the election of any such officers.

**SEC. 11.** The common council shall have power in their corporate capacity of enforcing the act of the general assembly entitled, "an act concerning free negroes and mulattoes, servants and slaves," approved February 10th, 1831.

This act to be in force from and after its passage.

### CHAPTER XIII.

An act to amend an act entitled an act to incorporate the New-Harmony Working Men's Institute for mutual instruction, approved February 15th, 1839.

[APPROVED JANUARY 31, 1840.]

**Sec. 1.** Be it enacted by the General Assembly of the State of Indiana, That it shall not be lawful for the body politic, known as the New-

Harmony Working Men's Institute for mutual instruction, to sell or convey any real estate which may be freely donated to them for the purposes of advancing the objects of the act incorporating said institution.

SEC. 2. Whenever the funds arising from the use of all or any of the lands said institution may acquire, either by purchase or donation, shall exceed what shall be necessary to carry into effect the objects of the act to which this is an amendment, the residue shall be expended in forwarding and conducting similar institutions in the state of Indiana.

SEC. 3. The real estate belonging to said institution, shall be leased to the highest bidder, at least ten days notice having been given of the time and place of such leasing, in a public newspaper published in the county in which said lands lie, if any there be, if not, then by written advertisements, in three of the most public places therein.

This act to be in force so soon as the said body corporate shall according to their by-laws, cause an acceptance of this act to be recorded in the record book of said corporation.

## CHAPTER XIV.

### An act to incorporate the Fort Harrison Guards.

[APPROVED FEBRUARY 7, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That A. A. Babbitt, G. W. Ball, Wm. A. Sangster, F. Magaw, James Hook, S. D. Gartrell, Wm. P. Bennett, Wm. B. Hodge, and others now enrolled as members of the Fort Harrison Guards at Terre Haute, and associates and successors be, and they are hereby constituted and declared to be a body corporate and politic, by the name and style of the "Fort Harrison Guards," and by that name shall have perpetual succession, with full powers and authority to contract and be contracted with, to sue and be sued, plead and be impleaded in any court of law or equity, to make, have and use a common seal, and the same to alter at pleasure; they shall have the power to elect their own officers, to make and enforce such by-laws, rules and ordinances, not inconsistent with the constitution and laws of the United States or this state, as they shall deem necessary for the welfare of said company.

SEC. 2. The officers of the company shall be commissioned by the governor of the state of Indiana, and all resignations shall be made to him.

SEC. 3. Said company shall be subject to the civil power, and ready when called on by the same, to turn out for the purpose of aiding in quelling and suppressing all riots and insurrections which may happen within the county of Vigo.

SEC. 4. Said company shall have power to assess and collect fines for non-attendance on parades or drills or meetings for the transaction of business for said company, not exceeding five dollars per day, and for any deficiency in equipments, not exceeding one dollar, each article as may be established by the by-laws of the company, and for all contempts, disobedience of orders or unsoldierlike conduct, on drill, parade or other meeting of the company.

SEC. 5. A member on being reported to a court martial ordered by the commanding officer of the company shall be liable to expulsion or fined not exceeding five dollars, or reprimanded before the company.

SEC. 6. The decision of the court martial shall be final except in case of expulsion, when it shall be decided by a legal vote of the company.

SEC. 7. All fines and assessments, collected by the company, shall be for the special benefit of the same, and shall be appropriated by a vote of the company.

SEC. 8. All fines and assessments may be sued for and recovered in an action of debt before any justice of the peace or other court having jurisdiction thereof, and on trial of any such cause, the certificate of the clerk or secretary of said company, with the company's seal affixed, shall be conclusive evidence of the legality of the claim.

SEC. 9. The company shall be drilled as nearly as practicable, after the United States system, and parade or drill in uniform, at least twelve times each year.

SEC. 10. The commandant of the company shall grant to the non-commissioned officers a warrant, which shall be their authority to do and perform any act lawfully enjoined on him by his superior officers.

SEC. 11. Any persons who shall serve for the full term of seven years in said company, from and after their enrollment, shall thereafter be exempt from all militia duty in this state, except called on in case of insurrection or invasion after the organization of said company, and so long as the same shall remain in active operation, the persons composing said company, shall not be required to perform any other militia duty in time of peace, any law to the contrary notwithstanding. The legislature reserves the right to alter, amend or repeal this charter.

This act to be in force from and after its passage.

## CHAPTER XV.

An act to amend an act entitled an act granting to the citizens of Madison and the town of Lawrenceburgh a city charter.

[APPROVED FEBRUARY 22, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That all the rights, powers, duties, and privileges conferred upon the city of Madison by the act to which this is an amendment shall be, and the same is hereby in like manner extended to and conferred upon the town of Lawrenceburgh in Dearborn county, except as herein provided.

**SEC. 2.** The corporate name of said town of Lawrenceburgh shall continue as heretofore provided by law.

**SEC. 3.** That the power conferred by the twentieth section of the act to which this is an amendment to prohibit bathing and swimming, and hereby extended to the town of Lawrenceburgh, shall be continued to apply to the Ohio river, Tanner's creek and Whitewater canal, adjoining and within said town.

**SEC. 4.** That the power conferred by the sixteenth section of the act to which this is an amendment, to have the use of the county jail, so far as the town of Lawrenceburgh is concerned, be construed to extend to the jail formerly used as the county jail of Dearborn county, situate in said town, and shall have the use of the same.

**SEC. 5.** That the boundaries of said town shall be construed to cover and include all the territory contained within the following bounds: Beginning on the Ohio river at low water mark, at a point where a straight line would terminate drawn from the eastern side of the tumble of the Whitewater canal; thence following the eastern bank of the waste way of said canal to its junction with the main canal; thence along the eastern bank of said canal to the centre of the trough pond (as it is called,) thence on a straight line to the centre of Tanner's creek, where the northern line of the grave yard would terminate; thence following the meandering of said creek to a point on the line between the land owned by one A. P. Hubbs and the land formerly owned by one David Nevett; thence on a direct line to the Ohio river at low water mark, to the eastern line of Wooval Spark's land; thence following the meanderings of the Ohio river at low water mark to the place of beginning.

**SEC. 6.** And for the purpose of organizing the government under the act to which this is an amendment the territory in said town is hereby divided into three wards, as follows: All the territory east of short street, extending in a due line from the north to the south limits of said town shall constitute the first ward: All the territory west of Short street south of the following line, beginning at a point on the northern line where the Short street line intersects; thence following

the northern line to the foot of the second bottom; thence around the rise or second bottom to the rail road culvert; thence along the line between Hubbs' and the land formerly owned by Nevett, to the centre of Tanner's creek, shall constitute the second ward: All the territory not included in the above wards, including what was formerly called New Edinburgh to constitute the third ward. And it is hereby made the duty of the president and select council of said town of Lawrenceburgh to appoint some suitable person, (if they are not already appointed) in each of said wards, inspectors of elections, and appoint a place for holding an election in each of said wards, (if it is not already done) on the first Monday of April next, which election shall be governed in all respects by the provisions of the act to which this is an amendment.

**SEC. 7.** The president and select council of said town are hereby authorized and empowered to collect by sale or otherwise any debts due and owing for taxes or for filling up or improving streets and alleys fronting on any lot or parts of lots in said town; in the collection of said debts they shall be governed in all respects as is provided in the act to which this is an amendment.

**SEC. 8.** As soon as a president and councilmen shall be elected and enter upon their duties as provided for in the act to which this is an amendment, then and from thenceforth all acts incorporating the town of Lawrenceburgh, and all acts amendatory thereto contrary to the provisions of this act, contained in the act to which this is an amendment or contrary to these amendments, so far as the town of Lawrenceburgh is concerned, shall be, and the same is hereby repealed, and all the powers and privileges of the president and select council of the town not derived from the act to which this is an amendment shall cease, and determine, and the president and select council under the act to which this is an amendment shall thenceforth become invested with all the real and personal estate, and all other rights and privileges heretofore belonging to the president and select council of the town of Lawrenceburgh, together with the property, funds, and revenues, and all moneys, debts, accounts, demands, due and owing or in anywise belonging to said president and select council: *Provided however,* That all suits pending or judgments recovered by or against said president and select council before the passage of this act, with all rights, interests or demands against or in favor of the same may be continued, prosecuted, defended and collected in the same manner as though the act to which this is an amendment had never passed.

This act to take effect from and after its publication in some newspaper published in the said town of Lawrenceburgh at the expense of said town.

## CHAPTER XVI.

An act to incorporate the Point Commerce Manufacturing and Trading Company, and for other purposes.

[APPROVED FEBRUARY 15, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That all persons who shall become stockholders pursuant to this act, shall be, and they are hereby constituted a body politic and corporate, by the name and style of "The Point Commerce Manufacturing and Trading Company," and by that name shall be capable of holding personal and real estate sufficient for carrying into effect the purposes of this act, and of suing and being sued, defend and being defended, answer and being answered unto in all courts of law or equity; and shall have a common seal, with power to alter the same at pleasure, and shall have the authority to ordain and establish such by-laws and regulations, not repugnant to the constitution and laws of this state and of the United States, as shall from time to time be found necessary for the good management and government of said corporation.

**SEC. 2.** The capital stock of said corporation shall be five thousand dollars, divided into shares of one hundred dollars each, and may be increased from time to time as said corporation may require, to not exceeding two hundred thousand dollars.

**SEC. 3.** That Ira Danby, James S. Freeman, James Jessup, James M. H. Allison, Meridith Gayney, James Stalcup, and C. J. Barackman, be commissioners to open books for receiving subscriptions to capital stock of said corporation, and the said books shall be opened on or before the 10th day of September, 1840, and each commissioner may receive subscriptions to the capital stock of said corporation.

**SEC. 4.** That whenever forty shares of the capital stock of said corporation shall have been subscribed, the commissioners shall cause an advertisement to be inserted in some public newspaper printed in Terre Haute, giving at least three weeks' notice of the time and place of the meeting of the stockholders to choose directors; and at the time and place appointed, the stockholders shall elect seven directors, being stockholders of said corporation, who shall serve one year from and after the time they enter upon their duty, and until their successors are elected and qualified, a majority of whom shall form a quorum to transact any business incumbent upon them as said board of directors.

**SEC. 5.** All elections shall be by ballot and each stockholder may have a vote for every share of stock he holds in said corporation either in person or by proxy.

**SEC. 6.** An annual election for directors shall be held at such time and place as a majority of the stockholders at their first meeting may appoint.

**SEC. 7.** The directors at their first meeting shall choose one of their body as president, and appoint a secretary, cashier, and such other officers as they may think necessary.

**SEC. 8.** Should the stockholders fail or neglect at any annual election, to choose directors, the corporation on that account shall not be dissolved, but the president and directors for the time being shall continue to exercise the duties of their office until their successors are chosen and qualified, which may be done at any time, by the president of the board giving ten days' notice of the same.

**SEC. 9.** The directors may demand from the stockholders respectively all such sums of money by them subscribed, at such time and in such proportions as they may think proper, by giving public notice twenty days prior to the time set for such payment, stating the amount on each share demanded, and the time and place such payment is required to be made; and if any stockholder shall neglect or refuse to pay such requisition within ten days after the time named for such payment, without a good cause for such delay, the corporation may through the board of directors, bring suit against such delinquent for the amount due, in any court of competent jurisdiction, and recover the amount due with two per cent. per month interest thereon, and if the amount cannot be made on execution, or if the delinquent is out of this state, the corporation may declare such stock forfeited to said corporation, with whatever amount may have been paid thereon, and the same shall be absolutely forfeited to said corporation.

**SEC. 10.** The stock of said corporation shall be assignable and transferable on the books of said corporation which may be done personally or by agent or attorney, according to the rules and regulations of said board of directors, and shall be considered at all times personal property.

**SEC. 11.** The directors shall at all times keep a book of accounts in which shall be registered all the transactions of said corporation, which books shall be subject at all times to inspection by the stockholders.

**SEC. 12.** Certificates of stock shall be given to each stockholder, signed by the president and countersigned by the secretary, which certificate cannot be transferable only on the books of said corporation, according to the rules heretofore prescribed.

**SEC. 13.** The said corporation is hereby authorized to build a dam across the west fork of White river, above the mouth of Eel river, at what is called Craig's old mill, said dam not to exceed three feet of perpendicular height above low water in the channel of said White river, with such slopes in said dam as will best promote the navigation; said corporation shall have all the benefits of the writ of ad quod damnum to condemn whatever amount of land on either side of said White river to make such necessary abutments as may be required to secure said dam against freshets, &c.

**SEC. 14.** Said company shall have the power to establish and conduct salt works, for the purpose of manufacturing salt, any where on their own premises, in the counties of Owen and Greene.

**SEC. 15.** Said corporation shall be liable at all times for all losses or damages that any individual may sustain by navigating said river in consequence of said dam.

**SEC. 16.** Said corporation may take the water from the pool of said dam by race or otherwise, to propel all such machinery as they may see proper to erect.

**SEC. 17.** No person who is not a resident of the state of Indiana, shall ever be a stockholder in said corporation; and whenever a judgment shall be obtained against the corporation, it shall be a lien upon all the real estate of said corporation and of each of the stockholders within the jurisdiction of the court rendering such judgment, and the transcript thereof recorded in the clerk's office of any other circuit court shall be a lien upon the real estate of any stockholder lying in the county in which said clerk's office is situated.

**SEC. 18.** Whenever any execution shall issue on any judgment obtained against said corporation, the same shall be first levied upon the personal and real estate thereof, and should not a sufficiency be found by the officer executing such process, to satisfy said execution, he shall then levy the same upon the personal or real estate of any and each of the stockholders.

**SEC. 19.** Whenever suit shall be commenced against said corporation, personal service of the process upon the president or any one of the directors, or a copy left with the person keeping the books thereof shall be deemed sufficient service.

**SEC. 20.** This charter to remain in full force for fifty years from and after its passage: *Provided*, That said charter may be repealed, altered or amended at any time by the general assembly.

This act to be in force from and after its passage.

## CHAPTER XVII.

An act to amend an act to incorporate the town of Rome in Perry county, approved February 1, 1836.

[APPROVED FEBRUARY 21, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the president and a majority of the trustees, shall have power to make and enforce all necessary by-laws, ordinances and regulations, to preserve order, regulate and establish markets, to sink and keep in repair public wells, to prevent the erection of public nuisances, or to impose a fine upon any person for permitting the same to remain on his, her or their lots, and shall have power to remove, and to declare

what shall be considered a public nuisance; and the jurisdiction of the corporation is hereby extended to the very lowest water mark on the Ohio river, and shall extend one-half mile up the river, from a point immediately opposite Sinking creek, and the same distance down the river from said point, and the corporation is hereby extended one-half mile in every other direction from the court house; and the said president and trustees are hereby authorized and required to enforce by proper penalties the observance of all laws and ordinances relative to the police and good government of said incorporated town.

**SEC. 2.** Any person retailing spirituous liquors at the landing on the Ohio, within the limits of said authority of Rome, as extended up and down the river by this act, in a less quantity than one quart, shall pay to the marshal of said town for the benefit of the corporation, five dollars for each such offence, and upon any person refusing to pay the marshal the above sum upon demand, then the marshal shall immediately procure from the president of the corporation, a proper process, to forthwith enforce the collection of the above sum and accruing costs before the president, who is hereby authorized to try the same, and to issue all necessary process to enforce the collection of his judgment.

**SEC. 3.** So far as the sixteenth section of the act to which this is an amendment prohibits any person from retailing foreign merchandise at said landing without paying to the marshal two dollars and fifty cents for every ten days, be, and the same is hereby repealed.

**SEC. 4.** The board doing county business in said county, shall not authorize any person to retail any kind of spirituous liquors, within one half mile of the court house in said town, without the person applying for the same, shall produce to the said board, a petition praying for a license to be granted to the applicant to retail spirituous liquors, which petition must be signed by a majority of the householders living within one half mile of the court house, and widows who keep house, shall under the provisions of this act be considered householders.

**SEC. 5.** The county agent nor any other person or officer shall be allowed to grant permits for the retailing ardent spirits within said corporation as extended by this act.

**SEC. 6.** No person authorized by the county board to retail spirituous liquors under the provisions of this act, shall under the penalty of five dollars, to be recovered by presentment or indictment, sell or give any spirituous liquors to any minor, without the consent of the parent or guardian of such minor; nor shall any demand or note given on account of spirituous liquors retailed, be recovered by law; nor shall any person authorized by this act to obtain license to retail spirituous liquors, sell such upon the Sabbath, to any person under the penalty of five dollars, to be recovered by presentment or indictment.

**SEC. 7.** The corporation tax under the provisions of this section, shall as heretofore, be five dollars; and upon a conviction of a violation of any of the provisions of this act, by indictment or presentment, it shall operate as a forfeiture of such license, and such individual shall not again be licensed.

**SEC. 8.** All the provisions of the act to which this is an amendment which do not conflict with the provisions of this act are hereby continued in force; and it shall be the duty of the circuit courts to give this act in charge to the grand juries.

**SEC. 9.** It shall be the duty of the secretary of state, immediately upon the approval of this act, to transmit a certified copy to the clerk of the circuit court of Perry county, and upon the reception thereof by the clerk, it shall be in force.

**SEC. 10.** The trustees may pass an ordinance to prevent woodboats or other boats, from being kept at the landing immediately opposite said town, during the months of July, August and September, if they deem it necessary for the health or comfort of the citizens; but such ordinance shall not be in force during any other months than those above named: *Provided however*, nothing in this act shall be so construed as to ruthorize or excuse any person for keeping in the way or obstructing the ferry landing with their boats or any otherwise.

**SEC. 11.** If hereafter any person who comes under the common appellation of loafer, shall be found loitering, lounging and idling about said town under suspicious appearances and without any visible lawful business, the trustees may at their discretion order the marshal to arrest and bring him before them, and if he cannot satisfactorily account to the trustees he shall be dealt with as a vagrant, under the provisions of the statute of this state relative to vagrancy; the trustees being liable for an abuse of the power given them in this section.

## CHAPTER XVIII.

An act to amend an act entitled an act to incorporate the City of New Albany, and to repeal all laws in force incorporating the town of New Albany, approved 14th February, 1839.

[APPROVED FEBRUARY 10, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That hereafter the mayor and recorder of the city of New Albany shall be elected annually by the qualified voters thereof on the first Monday in May.

**SEC. 2.** That should a vacancy occur in the office of mayor or recorder of said city, by death, resignation or otherwise, it shall be the duty of the city council forthwith to cause an election to be holden at the usual place of holding elections, to fill such vacancy or vacancies until the next annual election, notice of which election shall be given

in two public newspapers printed in said city, (if there be two printed therein) at least ten days previous to such election.

**SEC. 3.** That should a vacancy occur in the council of said city, it shall be the duty of the clerk thereof to give ten days' notice by setting up three written notices in the ward where such vacancy or vacancies shall happen, that an election will be holden at the usual place of holding elections in said ward, to fill such vacancy until the next annual election.

**SEC. 4.** That no property qualification shall hereafter be required for mayor, recorder or councilmen of said city.

**SEC. 5.** That no by-laws or ordinances shall, from and after the publication of this act, be in force, until a copy thereof, certified by the clerk of the city, and under the seal thereof, shall have been published at least ten days in two public newspapers published in said city, (if there be two published therein.)

**SEC. 6.** That the mayor and council of said city shall hereafter have power to levy an ad valorem tax on all property subject to tax not exceeding fifty cents on the one hundred dollars valuation.

**SEC. 7.** That so much of the act to which this is an amendment as comes within the purview of this act, be, and the same is hereby repealed: *Provided*, That the legislature retains the right hereafter to amend, alter, or annul any or all of the provisions of this amendment to said charter of incorporation of said city of New Albany.

**SEC. 8.** That it shall be the duty of the secretary of state to transmit forthwith to the clerk of the Floyd circuit court, to be filed in his office, a certified copy of this act, whose duty it shall be to cause the same to be published in the New Albany Argus and Gazette: *Provided*, That the city authorities of New Albany pay for publishing said act.

This act to take effect and be in force from and after its publication in the said New Albany Argus and Gazette ten days.

## CHAPTER XIX.

An act to repeal an act entitled "an act to incorporate the mayor and common council of the town of Lafayette, approved February 6, 1837."

[APPROVED, FEBRUARY 11, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That an act entitled an act to incorporate the mayor and common council of the town of Lafayette, approved February 6, 1837, together with an amendment thereto, approved February 14, 1838, be,

and the same are hereby repealed: *Provided however,* That John L. Pifer of said town, be, and he is hereby appointed a commissioner to settle up and adjust the affairs of said corporation, whose duty it shall be forthwith to take charge of the books, papers, money, and effects of said corporation, and as near as it can be done, so dispose of its money and effects, as to liquidate all just claims against said corporation, and for this purpose he shall have full power to collect the taxes and all other dues to the said corporation.

SEC. 2. This act to take effect and be in force from and after its publication in the "Indiana Eagle," a newspaper published in said town.

## CHAPTER XX.

An act to incorporate the Rockville, Parke county, Female Seminary.

[APPROVED, JANUARY 31, 1840.]

Whereas, a portion of the citizens of the county of Parke and state of Indiana, have formed an association for the purpose of establishing a female seminary in the town of Rockville in said county, and for the purposes aforesaid have adopted articles of association, subscribed stock, purchased a lot in said town, and have erected a suitable building thereon, and whereas said association is desirous of perpetuating said institution; therefore,

*Be it enacted by the General Assembly of the State of Indiana, That* Tyler S. Baldwin, W. C. Danalson, and William Rosebrough and their associates and successors in office, are hereby constituted a body corporate and politic, by the name and style of the "Trustees of the Female Seminary of Rockville," and by that name shall have power to sue and be sued, plead and be impleaded, in any court either in law or equity, having competent jurisdiction, and to make, alter and repeal any by-laws for their regulation and government not inconsistent with the laws and constitution of the United States and of this state, and to have and use a common seal, and the same to alter at pleasure, to purchase, receive, and accept of any gift, grant, donation, bequest, or conveyance, by any person, company, or corporation of any property, real or personal, and to hold, enjoy, sell dispose of, rent or hire the same at pleasure, and to do any and all other acts that they may deem necessary for the benefit and advantage of said institution.

SEC. 2. The officers of said institution shall consist of a president, vice-president, treasurer, secretary, and three trustees, who shall be elected annually by the stockholders, except the three trustees who shall be elected tri-annually; after the first election one shall be elected for one year, one for two years and one for three years, so that one shall

be elected annually thereafter, all of whom shall serve until their successors are chosen and qualified, the persons named in the act shall serve as trustees until others are elected, and all persons elected to office shall receive a certificate of election from the clerk, and take an oath of office before any one authorized to administer the same, a copy of which shall be endorsed on the back of the certificate and filed with the clerk, except the president and vice-president, who shall only endorse their acceptance on the certificate and file them with the clerk.

SEC. 3. It shall be the duty of the president and in his absence the vice-president and in the absence of both a president and pro tem. to preside at all meetings of the stockholders and explain the object of the meeting, and it shall be his duty, and he is hereby invested with power to inflict a fine not exceeding three dollars on any member of the company for contempt or disorderly conduct during any meeting of the stockholders; he shall have the same right of voting as other stockholders, and in addition thereto shall give the casting vote in case of a tie, and shall sign the records of each meeting.

SEC. 4. The treasurer before entering on the duties of his office shall file his certificate of election, and shall execute his bond with security, and in an amount to be approved by the trustees, made payable to the trustees of the Female Seminary of Rockville, conditioned that he will faithfully perform the duties of his office, and that he will pay over to the order of said trustees all the money that may come into his hands as treasurer, and to deliver to his successor in office all money, bonds, notes, books, papers, and valuable things whatsoever that may have come into his hands as treasurer. It shall be his duty in the name of the corporation to collect all fines and taxes assessed upon the stockholders and any and all dues whatsoever to the institution, and make a report of the condition of the treasury at least once a year, and as much oftener as the trustees may require.

SEC. 5. The secretary on presenting his certificate of election shall receive all the books, records, papers, and documents belonging or in any way pertaining to the stockholders or trustees. It shall be his duty to attend all meetings, both of the stockholders and trustees, and to record all the proceedings of each and every meeting in a neat and legible style, in such a book or books as the trustees may order, he shall make out and sign a certificate for each officer elected and deliver the same in one week after the election, and record all certificates of election in such manner as the trustees may direct, together with all and every thing ordered to be recorded by any meeting of either the stockholders or trustees, and shall take all possible care of all books, papers, and documents of whatever kind that may come into his hands, and deliver the same to his successor in office.

SEC. 6. The trustees before entering on the duties of their office shall file their certificate of election with the clerk, they may meet when, where, and as often as they shall deem necessary, and a majority shall constitute a board to do business, one of whom shall preside as chairman and shall sign the records of each meeting, they shall fill all va-

cancies occurring in the offices of the corporation or of their own body until the next annual meeting of the stockholders, they shall report to the annual meeting the condition of the institution, and give a detailed statement of the receipts and disbursements of the preceding year, they shall appoint the time and place of holding the annual meeting of the stockholders, and give at least one week's notice by posting up advertisements in at least three public places, in the town of Rockville; they may also call a meeting of the stockholders as often as they deem necessary when business requires it by giving ten day's notice by advertising, &c.

**SEC. 7.** Each share of stock shall be five dollars, and every stockholder shall be entitled to one vote for each and every share he, she, or they may own; all stock that is or may be sold shall in every instance be recorded as the trustees may direct before the purchaser can be entitled to the benefit or privileges thereof.

**SEC. 8.** No money shall be paid over, nor bonds be delivered up only upon the order of the board of trustees entered of record, a copy of which, certified by the clerk, shall be sufficient authority for the treasurer to pay over the amount to the person in whose favor the order was made or to his legal representative or assigns; the trustees may at any time authorize the treasurer to receive, and by due course of law collect any and all dues to the corporation either from stockholders or others in the name of the corporation, together with costs of suit, in any court of competent jurisdiction, and in case any stockholder shall continue in arrears, his privileges as such shall be suspended, and the trustees may in their discretion declare his stock forfeited after a lapse of twelve months.

**SEC. 9.** The trustees shall make a reasonable allowance to any stockholder for any services he may render to the corporation, and any stockholder shall have the same privilege of coercing payment for property sold or individual services rendered to the corporation that any other individual might or could have.

**SEC. 10.** Said institution shall at all times be under the control and supervision of the trustees, they shall determine the number of pupils, the price of tuition and the branches of literature proper to be taught in said seminary, and do all other things necessary for the furtherance of education, not inconsistent with the constitution and laws of this State, and of the United States.

**SEC. 11.** That said institution shall not hold real estate to a greater amount than twenty thousand dollars, and if they should become possessed of a greater amount of real estate than the sum aforesaid, by demise, purchase or otherwise, then it shall be the duty of said institution to sell or dispose of the same, and to appropriate the same to the furtherance of the object of education.

**SEC. 12.** The said State of Indiana reserves to herself the right to alter, amend, or annul this charter.

This act to take effect and be in force from and after its passage.

## CHAPTER XXI.

An act to incorporate the town of Noblesville in the county of Hamilton, Indiana.

[APPROVED FEBRUARY 15, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That John D. Stephenson, Samuel Dale, William C. Smith, Thomas T. Butler, and Jacob Robbins be, and they are hereby appointed trustees of the town of Noblesville, Indiana, to serve as such until the first Monday in June 1840, or until their successors are elected and qualified as hereafter directed.

**SEC. 2.** That said trustees shall meet on the first Monday in April next, after the passage of this act, and shall from their own body elect a president. The said president and trustees and their successors in office shall be and they are hereby declared to be a body politic and corporate, with perpetual succession, by the name and style of the president and trustees of the town of Noblesville, and by their corporate name shall be capable both in law and equity to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in any court of competent jurisdiction. They shall have power to ordain and establish and put in execution all such laws, ordinances and regulations as they shall deem necessary for the police, good government and order of said town, subject to the limitations and provisions hereinafter provided, and not inconsistent with the constitution and laws of this state and the United States.

**SEC. 3.** On the first Monday in June 1840, and annually thereafter, there shall be an election held in some convenient place in said town, to be designated by the president and trustees for said corporation, at which election all white male citizens, inhabitants of said town possessing the qualification of voters for state and county officers, who shall have resided within the bounds of said corporation three months next preceding said election, shall be entitled to vote, and it shall be the duty of the president and trustees to give ten days notice of the time and place of holding said election by publishing the same in some newspaper printed in said town, if there be one, or by setting up in three public places in said town, written or printed notices of the time and place of holding said election.

**SEC. 4.** The president of said corporation shall act as inspector of elections who shall attend the same and call to his assistance two of the qualified voters of said town, who shall be judges of said election, and together with said clerk shall take an oath or affirmation faithfully and impartially to discharge their duties. They shall, after taking such oath or affirmation, attend the time and place appointed for said election, and proceed to receive the votes of the voters of said town for five trustees to serve as such for the ensuing year or until their successors are elected and qualified. Provided however, That if

said voters shall fail to attend or the president and trustees fail to give notice of said election, the said corporation shall not thereby be dissolved, but said president and trustees shall serve until the next annual election, and until their successors are elected and qualified. *Provided further,* That should the president not attend said election, the voters present may choose from among themselves an inspector who shall take an oath or affirmation as aforesaid, and shall proceed and conduct the election in all respects as directed in this section.

**SEC. 5.** It shall be the duty of the president and judges of said election to certify under their hand and seals the five persons who have received the highest number of votes, which such certificates shall be filed and recorded by the clerk of said corporation, and a copy thereof given to each of the five persons returned; the said trustees thus elected, or a majority of them, shall meet within twenty days after such election, and after taking an oath or affirmation faithfully and impartially to discharge their duties, shall proceed to elect one of their own body as president, whose duty it shall be to preside at the meetings of the board, preserve order, sign the record of their by-laws, journal or minutes of proceedings, which shall also be attested by the clerk of said corporation, and after a copy thereof of a public nature, signed by the president and attested by the clerk shall have been published in a newspaper printed in said town, if there be one, or set up in three public places in said town, ten days therein, such laws shall be in force. All other laws to be in force from and after their passage and signing as aforesaid.

**SEC. 6.** A majority of the trustees shall at all times form a quorum; they shall meet on their own adjournments, and appoint all officers necessary to carry into effect the provisions of this act and make them such compensation as to them may seem reasonable. No person shall be eligible as a trustee unless he be a qualified elector and a freeholder or householder within the bounds of said corporation. When vacancies happen by death, resignation, or otherwise, they shall be filled by the appointment of the trustees until the next annual election.

**SEC. 7.** The president and trustees shall have full power and authority to levy and collect annually from each male inhabitant of said town of full age and not a pauper, a poll tax not exceeding fifty cents, in any one year; and also a tax on real property not to exceed one half of the per cent. on its valuation, and on all shows exhibitions, and amusements which may be exhibited or performed for gain any sum not exceeding ten dollars for each day's exhibition or performance thereof, and may levy and collect a tax on any specific article or articles of personal property.

**SEC. 8.** The president and trustees shall in the month of April in each year appoint an assessor, who shall take an oath of office and give bond and security to be approved of by the president and board, conditioned for the faithful performance of his duties as assessor, after which he shall proceed forthwith to take a fair list in alphabetical order of all persons to tax, together with such property as the president and trustees may direct him to list; also of all lots and fractions of

lots, particularly noting the number and description thereof, the owner's name if known, and whether resident or not. After having completed such assessment, he shall call to his assistance two freeholders, who, having been sworn faithfully and impartially to value the real property, exclusive of improvements, so listed, shall with the assessor, proceed to value the same; and such assessor shall on or before the second Monday of May next, make return to the clerk of the corporation such list and assessment.

**SEC. 9.** The president and trustees shall in the month of May in each year levy a tax on the property so listed and returned by the assessor, and appoint a collector, who shall take an oath and give bond with security to be approved of by the president and trustees, conditioned for the faithful performance of his duties, and that he will faithfully pay over to the treasurer of the corporation or such person as may be authorized to receive the same, all moneys that may come to his hands as collector. Said collector to serve for one year unless sooner removed.

**SEC. 10.** The president and trustees shall cause the clerk of said corporation to make out a fair list of all persons taxable, with a poll tax, with personal property, real property, with its valuation, setting forth the owner's name if known, the amount of tax chargeable to each person and the amount charged on each article, and shall deliver a duplicate copy of the same to the collector on or before the first Monday in June annually, and certify the amount of tax contained in said duplicate to the treasurer. Such list put into the hands of the collector, signed by the president and certified by the clerk, shall be sufficient authority for the collector to collect the same.

**SEC. 11.** It shall be the duty of the said collector to receive and collect the amount of tax due from each individual as charged in said duplicate list on or before the first day of August in each year and shall on or before the first day of August in each year pay over said tax to the proper person authorized to receive the same; and in all cases when the tax is not paid by that time, it shall be the duty of said collector to proceed by sale and distress of personal and real estate in the same manner as collectors of the state and county revenue were required by an act entitled an act for assessing and collecting the revenue, approved February 10, 1831, in all respects not otherwise herein directed; and all sales by such collector of real or personal estate shall be as valid and binding as if made by the sheriff or collector of state or county revenue, and all deeds made or certificates given by him shall have the same force and effect as if made by such sheriff or collector, and land or lots so sold for tax, as they would have been by virtue of the act aforesaid, shall be redeemable in the same manner as lands sold for state or county tax. Said collector shall, on or before the first Monday in October in each year, make return to the clerk of the corporation of his proceedings, and of all sales by him made, and he shall at the same time furnish a delinquent list, for which he shall receive a credit if true.

**SEC. 12.** The president and trustees shall in the month of May in each year appoint a treasurer, who shall take an oath and give a bond to be approved by the president and trustees, conditioned for the faithful discharge of his duties as such treasurer.

**SEC. 13.** Whenever the owners of any lots on any street or section of street shall be desirous of improving the same by grading, graveling, or paving said street or side walk thereof, or any other improvement of said street or side walk, two thirds of the resident owners of lots on said street or section of street by themselves, or agent representing two thirds of the number of front feet owned by resident owners on such street, or section of street, shall by petition represent to the president and trustees plainly and distinctly the improvement wanted or contemplated to be made; it shall be the duty of the said president and trustees to cause the same to be done in the most economical manner, agreeably to the wishes of said petitioners and the expense of such improvement shall be assessed and levied on all the lots fronting on such street or section of street, equally per front foot, for the distance such improvement may be intended to extend, which assessment and levy, from the time of making the same, shall be a lien on said lot or lots until the amount so assessed and levied be fully paid and discharged. It shall be the duty of the clerk of said board to enter such petition, or record, with the petitioners' names, the number of feet front owned or represented by each, and to make and deliver to the collector of the corporation, a list of the owners' names if known, the number of feet front owned by each individual, the rate of expense on said lot for such improvement, and the whole amount assessed and levied on each lot or fraction of lot, which list, signed by the president and certified by the clerk, shall be sufficient authority for said collector to proceed to collect the same; and if the owner or agent of any such lot shall neglect or refuse to pay the amount so assessed and levied, within three months after such levy, the collector shall proceed to collect the same by sale of such lot or fraction of lot, or so much thereof as may be sufficient to pay the amount so levied and costs of sale; and the said collector shall in all respects proceed in such sale in the same manner as in the sale of lots for tax, and the right of redemption shall be the same as in the case of sale for tax; and if any such lot or fraction of lot shall not sell for want of purchasers, or any other cause, the collector may postpone the sale from time to time, until the same shall be sold, adding the costs of former advertising; said collector shall be allowed in cash for advertising fifty cents, and fifty cents for making deed or certificate.

**SEC. 14.** It shall not be lawful for any person within the bounds of said corporation, to sell by a less quantity than one quart at a time, any spirituous liquors, foreign or domestic, or keep what is commonly called a tippling house or grocery, unless such person or persons shall in addition to the license obtained from the board of county commissioners, obtain a license from said corporation who is hereby authorized to grant the same to such applicant for one year, on his, her, or their paying into the treasury of said corporation, a sum not exceed-

ing fifty dollars, nor less than ten dollars, at the discretion of the president and trustees; and if any person or persons shall sell any spirituous liquors, or keep what is commonly called a tippling shop or grocery, contrary to the provision of this act, he, she, or they, so offending shall, upon conviction thereof, upon presentment or indictment, or otherwise, before any court of competent jurisdiction, be fined in any sum not exceeding fifty dollars nor less than five dollars, for the use of the county seminary in said town.

**SEC. 15.** Fines and penalties for the violation of any of the laws or ordinances of said corporation may be inflicted and recovered before justices of the peace residing within the limits of said town, who are hereby invested with jurisdiction of the same.

**SEC. 16.** The bounds of said corporation shall for the purpose of taxation and police, extend and embrace the plat of said town including all out-lots and any addition or additions that have been or may be made thereto, as the same may be or shall be recorded in the recorder's office of the county of Hamilton, and for the purposes of good government, the removal of nuisances, the suppression of gambling, horse racing, tippling, or any other immoral conduct; the limits of said corporation shall extend three fourths of a mile from the court house in every direction.

**SEC. 17.** This act can be altered, repealed, or amended at any time by the legislature. This act to be in force from and after its passage: *Provided*, That should the president fail or neglect to attend any of the meetings of said board the members present may proceed to elect from among themselves a president pro tem., who shall serve at such meeting and discharge all the duties for the time being, required of the president.

## CHAPTER XXII.

An act to amend an act entitled an act to incorporate the town of Vevay, approved January 30th, 1836.

[APPROVED FEBRUARY 17, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the words town of Vevay, as it occurs in the first and other sections of the act, to which this is an amendment, shall be taken hereafter to mean and include the following boundaries and no other, to-wit: Beginning at the Ohio river at a point where the line dividing the land lately owned by John D. Morerod from Sheets and Dufour's addition to the town of Vevay, intersects said river, running thence with said line northerly to Seminary street eastwardly to its intersection with Ferry street; thence northwardly with the course of Ferry street

to the upper line of John Sheet's addition to the town of Vevay, recorded in 1839; thence with the northern boundary of said addition to the northern corner thereof; thence with the eastern boundary of said addition south forty degrees east to Seminary street; thence crossing Seminary street down a ditch to Main street, thence crossing Main street down said ditch, with the general course of said ditch south forty degrees east to the Ohio river at low water mark; thence down the Ohio river with the meanderings thereof to the place of beginning.

SEC. 2. So much of the act to which this is an amendment as comes within the purview of this act be and the same is hereby repealed.

This act to be in force from and after its passage.

### CHAPTER XXIII.

An act to charter the Evansville Rifle Rangers.

[APPROVED FEBRUARY 15, 1840.]

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That William Tileston, William M. Walker, Daniel Woolsey, Joseph Bowles, and their successors be, and are hereby made and declared to be a body politic and corporate by the name and style of "The Evansville Rifle Rangers." By that name they shall have perpetual succession with full power and authority to contract and be contracted with, to sue and be sued, plead and be impleaded, in any court of law or equity, to make, have and use a common seal, and to alter the same at pleasure; they shall have full power to make, establish and enforce such regulations and by-laws as they may deem necessary to prescribe the mode of electing their own officers and members and for promoting the general welfare and good government of said company: Provided, That such regulations and by-laws are not inconsistent with the constitution and laws of the United States or of this state. The said company may, at their discretion own, have and use, for any purpose tending to promote their interests or discipline as a military corps, property and effects, real, personal and mixed, of value not exceeding in all the sum of one thousand dollars.

SEC. 2. The officers of said company shall be a captain, one or more lieutenants, and an ensign, who shall be elected by the company and commissioned by the governor of the state. The non-commissioned officers shall be elected by the company and hold their offices during good behavior. And a warrant issued by the captain and countersigned by the clerk, shall be deemed sufficient authority for any mem-

ber of the company to assume the duties of a non-commissioned officer or to perform any act which his superior officers may lawfully enjoin.

SEC. 3. It shall be the duty of the commanding officer to call said company out for parade at least six times in each year and oftener when a majority of the commissioned officers shall deem it proper; and the discipline inculcated and practised shall correspond with that of the United States army and with the most improved system of modern tactics.

SEC. 4. It shall be the duty of the company to appoint a committee of three members, who shall sit as a court martial at least once in each year; the said court martial shall be organized by the election of a president who shall administer to the members the following oath: You do solemnly swear that you will support the constitution of the United States and of the state of Indiana, and that you will faithfully and impartially discharge your duties as a court martial according to the best of your abilities, so help you God. And it shall be the duty of said court martial thus organized and qualified to hear and decide on the sufficiency of any excuse that may be offered by any officer, non-commissioned officer, musician or private for non-attendance at any parade, muster or drill which has been ordered pursuant to the regulations of the company or for any deficiency in uniform or equipments and when no excuse or an insufficient excuse is made for any such delinquency to assess such fine or fines as are authorized to be imposed by this act or by the by-laws and regulations of said company.

SEC. 5. The fines imposed for non-attendance at parade or muster shall be on a commissioned officer not less than three nor more than five dollars; on a non-commissioned officer not less than two nor more than three dollars; on a musician or private not less than one nor more than two dollars; for deficiency in uniform and equipments not less than one nor more than five dollars for each article deficient.

SEC. 6. Any person wishing to unite with said company may be admitted to membership by a vote of a majority of the members present at any regular meeting of the company; and a member wishing to resign his membership may do so whenever his resignation in writing shall be accepted by a vote of two-thirds of the members present at a regular meeting, or a member may be suspended or expelled from said company by the vote of three-fourths of the members present at any regular meeting as aforesaid for ungentlemanly or unsoldierlike conduct: Provided however, That the offending member shall have timely notice of the accusation against him and the privilege of being heard in his own defence before the vote for expulsion be taken. It shall also be the duty of the commandant of said company to return to said court martial a list of the names of all delinquents together with a statement of the particular fault or deficiency with which the officers, musicians or privates are respectively charged, previous to their regular meeting.

SEC. 7. All fines collected from said company shall be reserved for the exclusive use and benefit of the same, and in case the fines shall prove inadequate to defray the necessary expenses of the corps a

sufficient sum may be raised by an equitable levy on each member, made by the vote of a majority at any regular meeting, and all fines and levies on said members may be sued for and recovered in an action of debt before any justice of the peace or other court having competent jurisdiction, and in the trial of any such case the record of the proceedings of said court martial duly signed by the president of the same, or a copy thereof duly signed by the secretary of the company or in case of a levy made by the company, a copy of the order for such levy, certified by said secretary with the company seal thereto affixed, shall be regarded as conclusive evidence that the fine or levy for the recovery of which said action was brought has been legally assessed.

SEC. 8. Said company shall always be subject to the civil power and liable whenever called upon by the sheriff to aid and assist in quelling riots and insurrections which may arise in the county of Vanderburgh; and any person regularly belonging to said company and performing military duties therein shall not be required to perform any other military duties in time of peace.

SEC. 9. All persons who shall serve in this company for the full term of ten years, shall be exempted thereafter from all military duties in this state, excepting when called upon in case of war, insurrection or invasion.

SEC. 10. This act shall be in force from and after its publication in a newspaper published in Evansville: *Provided however,* That the legislature shall have the power at any time hereafter, to annul, alter or amend this charter of incorporation.

## CHAPTER XXIV.

An act to amend an act entitled an act to incorporate the Lawrenceburgh Bridge Company, approved January 24th, 1831.

[APPROVED FEBRUARY 15, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the capital stock of said company shall consist of twenty-five thousand dollars, to be divided into shares of five dollars each.

SEC. 2. The affairs of said company shall be managed by five trustees, which a majority of the stockholders may reduce as low as three, a majority of whom shall form a quorum to do business, to be elected by the stockholders on the first Monday of May next, and on the first Monday of May annually thereafter, and the trustees when elected shall serve one year, and until their successors are chosen and qualified to take their places; and should there be any vacancy among

the trustees by death or otherwise, the remaining trustees shall fill such vacancy at their next meeting.

SEC. 3. To aid in the transaction of business the trustees shall have power to make all such rules and regulations or by-laws as they shall deem necessary to carry into effect the provisions of this act, and to appoint all officers and agents they may find it necessary to employ, and when the interest of the company requires it, to remove them and appoint others in their places.

SEC. 4. Said company shall cause a record of their proceedings to be kept in a book to be provided for that purpose, which shall always be open to the inspection of any two stockholders, who may call together and demand it.

SEC. 5. In all elections held by said company each person shall be entitled to as many votes as he holds shares of stock in said company.

SEC. 6. And that any person for an injury done to said bridge, or its appurtenances, or for any obstruction placed in the way of travelling, shall be liable to the company for double the amount it may cost to repair the same or remove such obstruction, with costs of suit, to be recovered on conviction thereof before any court competent to try the same.

SEC. 7. That no bridge shall be erected or ferry kept within one half mile above or below said bridge, on Tanner's creek: *Provided* the said company shall give the county of Dearborn or the townships of Lawrenceburgh and Manchester in said county or either of them the privilege of taking said bridge from the company by paying them the cost of said bridge, with eight per cent. interest upon such amount, to be assessed and ascertained in the same manner as is provided in the tenth section of this act: *And provided also,* That it shall not be lawful for said company or any person to obstruct the state road leading from Lawrenceburgh in Dearborn county to Napoleon in Ripley county, or divert it from its present location.

SEC. 8. That all stock increased by this act and remaining unsold, may be offered in such amounts and at such times and places, and under such arrangements as the trustees may deem advisable or for the interests of the company; and that the acts of the trustees up to this time be, and the same are hereby confirmed and legalized: *Provided,* That it shall not be lawful for any one person to take directly or indirectly a greater number of shares than ten, until it shall have been advertised in all the newspapers in the county and at the court house door four weeks, that the books will be opened on a certain day and place therein named, and not until after all shall have had an opportunity to subscribe for said stock for two entire weeks.

SEC. 9. That if said company by their trustees shall accept of this amendment of their charter, and spread the same upon the record of their proceedings, the same shall be, and is hereby made a part of the charter of said company, as fully as if the same had been a part of the original charter.

**SEC. 10.** That those persons who have become stockholders in pursuance of the above recited act and all those who may hereafter become stockholders in said company shall be named and styled "The Lawrenceburgh Bridge Company," and by that name shall be capable in law of possessing and holding real estate sufficient for the purposes of said company, and of exercising all the rights and privileges granted by the first section of the above mentioned act, and shall have power to make and use a common seal, and the same to change and renew at pleasure: *Provided however,* That in case at any time hereafter a charter shall be obtained incorporating a company for the purpose of constructing a turnpike road from Lawrenceburgh in Dearborn county to Napoleon in Ripley county, all the right, interests and powers granted by the charter to which this is an amendment, shall pass to such turnpike company on condition that they shall pay to the bridge company the amount expended in its construction, taking dilapidation and waste into consideration, to be ascertained in the same manner as is provided in the twelfth section, with eight per cent. upon such amounts.

**SEC. 11.** That said company may erect a bridge across Tanner's creek, at the same place where the present bridge erected by said company now stands, or at any other point the board of trustees of said company may select, either up or down said creek, within one half mile of the present bridge; and the said incorporation shall have power to and may use the writ of ad quod damnum and pursue the course pointed out by, and enjoy all the benefits arising from the law allowing such writ, for the purpose of having condemned the necessary quantity of ground for the erection of the necessary abutments, toll-houses and necessary causeways.

**SEC. 12.** That the value of the old stock shall be ascertained by the appointment of five disinterested persons to be chosen, two by the old and two by the new stockholders, and the fifth by those chosen by the parties, whose award shall be final; and the old stockholders shall be entitled to stock in said company equal to their interest in the old bridge so estimated.

**SEC. 13.** That sections two, three, four, five, seven, ten, eleven and twelve of the above recited act, and all subsequent enactments be, and the same are hereby repealed; and that this act be in force from and after its passage and publication in the Political Beacon, at the expense of said company.

**SEC. 14.** The legislature reserves the right to revive the twelfth section of the act to which this is an amendment, or any part thereof.

## CHAPTER XXV.

An act to incorporate the Orange Guards.

[APPROVED FEBRUARY 10, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That James W. Webb, William Fisher and Alonzo F. Riley, and their associates and successors be, and they are hereby instituted and declared to be a body corporate and politic, by the name and style of the "Orange Guards," and by that name shall have perpetual succession, with full power to contract and be contracted with, to sue and be sued, plead and be impleaded in any court of law and equity, to make and use a common seal, and the same to alter at pleasure; to elect their own officers, to make, ordain and establish and enforce such by-laws, rules and ordinances, not inconsistent with the laws and constitution of the United States and of this state, as they shall deem necessary for the welfare and better government of said company.

**SEC. 2.** Said company shall be subject to the civil laws and ready whenever called on by the same, to turn out for the purpose of aiding in suppressing all riots and insurrections which may happen in the county of Orange and elsewhere.

**SEC. 3.** Said company shall have power to assess and collect such fines for non-attendance on parade at any muster of said company, for deficiencies in equipments, for all contempts, or disobedience of orders or unsoldierlike conduct on parade, as may be established and fixed by the by-laws of said company, and also shall have power by a vote of a majority of the company present, to expel any member for any of the causes aforesaid or for any other cause which may be deemed sufficient to justify an expulsion.

**SEC. 4.** All violations of the rules and regulations, and by laws of the company or other delinquencies or misconduct, shall be noted by the proper officer and reported to a board of assessment, to be constituted of the commissioned officers of said company, who, or a majority of whom, shall meet annually in the town of Orleans, on the fourth Monday of November, and receive such report, and assess such fine or fines as may be authorized by the by-laws of said company, the highest or senior officer present acting as president of the board. The said board shall also have power to appoint a secretary, whose duty it shall be to record the proceedings of said board, and to make out and to certify three fair lists of the persons fined at such court, together with the cause and amount of the fine and post up said lists in public places in said town, within ten days next after the adjournment of said board. Said board shall also have power to hear and consider all excuses and defences which may be offered by any delinquent, and hear the testimony of witnesses, and administer all oaths necessary to be administered in the progress of such examination.

**SEC. 5.** After the lists aforesaid shall have been posted up ten days aforesaid, any person charged therein with a fine, having failed or refused to call upon the treasurer of said company and pay and discharge such fine by voluntary payment, it shall thereupon be the duty of the treasurer of said company, before any court of competent jurisdiction, against any person so fined as aforesaid, and proceed to collect the same as in other cases, in which action or actions, one of the lists aforesaid, or a certified copy thereof, shall be *prima facie* evidence in support of such action.

**SEC. 6.** All fines so assessed and collected as aforesaid shall be appropriated for the exclusive benefit of said company, and shall be laid out and expended pursuant to the by-laws of said company.

**SEC. 7.** No person who shall be enrolled in said company shall be excused from performing duty therein, unless released by the company, or unless he shall have served therin five years as a member, after which service such person shall be exempt from militia duty in this state, except in case of insurrection or invasion.

**SEC. 8.** That any person subject to military duty in the county of Orange, shall be permitted to become a member of said company, any law to the contrary notwithstanding.

**SEC. 9.** That said company shall be subordinate to the militia law of this state, and shall perform duty as therein required, and may also provide in the by laws of said company, for such number of extra trainings as may be deemed necessary, to be held on such days, and at such places, as may be fixed and appointed.

**SEC. 10.** *Provided,* That the legislature shall have power hereafter to alter, amend, or annul this charter of incorporation.

This act to take effect and be in force from and after its passage.

## CHAPTER XXVI.

**An act to amend an act entitled an act to incorporate the Richmond and Boston Turnpike Company.**

[APPROVED, FEBRUARY 13, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the act entitled an act to incorporate the Richmond and Boston Turnpike Company, approved February 15 1839, be, and the same is hereby so amended as to allow said company to commence operations on said work so soon as there are thirty thousand dollars of the capital stock subscribed.

This act to take effect and be in force from and after its passage.

## CHAPTER XXVII.

**An act to amend an act entitled an act to incorporate the Western Literary Society of the Wabash College in the county of Montgomery, approved, February 7, 1835.**

[APPROVED, FEBRUARY 13, 1840.]

*Be it enacted by the General Assembly of the State of Indiana, That the corporate name of the Western Literary Society in the county of Montgomery be, and the same is hereby changed, and shall hereafter be known by the name and style of the "Euphronean Society."*

This act to be in force from and after its passage.

## CHAPTER XXVIII.

**An act to incorporate the Orleans Institute.**

[APPROVED, FEBRUARY 7, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That all persons who shall become stockholders pursuant to this act shall be and they are hereby constituted a body corporate by the name and style of Orleans Institute, and by the same corporate name may sue and be sued, plead and be impleaded in any court of competent jurisdiction in this state, contract and be contracted with, take and hold estate real and personal or mixed, by gift, grant, contract, devise, bequest, or otherwise, and to hold, enjoy, and dispose of the same as may be deemed best for the interest of said institute.

**SEC. 2.** The capital stock of said corporation shall not exceed twenty-five thousand dollars, divided into shares of fifty dollars each.

**SEC. 3.** Whenever sixty shares of stock in said corporation shall be subscribed, the trustees of said corporation shall hold a meeting for the purpose of making such regulations as shall in their opinion be necessary for the interest of said corporation.

**SEC. 4.** The stockholders after the first year shall have an annual meeting on the first Wednesday in April in each year or at such other time as the stockholders at any regular meeting may direct, at which meeting the officers of the corporation shall be elected for the ensuing year.

**SEC. 5.** Each stockholder shall have one vote for each share of stock he may hold in said institution, provided that each stockholder shall be allowed to vote only in proportion to the number of shares he may actually have paid into said institution.

**SEC. 6.** The trustees, or a majority of them shall, at their first or any regular meeting elect one of their own body as president, who

shall preside at all meetings of the trustees and stockholders, and in all cases give the casting vote; it shall also be his duty to serve as secretary, or the trustees may appoint a secretary.

SEC. 7. The treasurer before he enters upon the duties of his office shall execute a bond payable to the Orleans Institute in the penal sum not exceeding double the amount of the funds which may probably come into his hands at the discretion of the trustees, conditioned for the faithful performance of his trust, making a true report of the condition of the treasury to said trustees at least once a year, and as much oftener as said trustees may require, and that he will pay over to the order of said trustees all the money that may come to his hands as such treasurer, and to deliver to his successor in office all monies, bonds, books, notes, papers and valuable things whatever that may come into his hands as treasurer; it shall be the duty of the treasurer in the name of the corporation to collect all tuition fees, taxes, and contributions assessed upon the stockholders, and any and all dues whatsoever with the Orleans Institute.

SEC. 8. Said trustees shall keep a book in which the secretary shall record all their proceedings, as also the proceedings of the stockholders, which shall be from time to time signed by the president.

SEC. 9. No money shall be paid over, nor bond delivered up but upon the order of the trustees, entered of record as aforesaid, a copy of which order certified by the president, shall be sufficient authority for the treasurer to pay over the amount to the person in whose favor such order was made.

SEC. 10. The board of trustees shall have full power from time to time to make such by-laws, ordinances, and regulations, not inconsistent with the constitution and laws of the State of Indiana, or of the constitution and laws of the United States, nor of the true intent and meaning of this act, as shall be deemed necessary for the welfare and interest of said institution, and to do all other acts in pursuance thereof, necessary for the prosperity of said institution, and whenever they may think the occasion requires it, call a special meeting of the stockholders.

SEC. 11. One-third of the votes of all the stockholders shall at all times constitute a quorum to do business.

SEC. 12. The trustees shall meet when and where and as often as they may deem necessary, and a majority of said board shall constitute a quorum to do business: *Provided however,* That in all cases where a meeting is held otherwise than on adjournment, the president shall give or cause to be given notice of the time of meeting to each trustee.

SEC. 13. Said trustees shall fill all vacancies occurring in their own body, until the annual meeting of the stockholders.

SEC. 14. The trustees shall report annually at the regular meeting of the stockholders the condition of such school, and give detailed statements of the receipts and disbursements of the year preceding.

SEC. 15. There may be taught in said institute any of the langua-

ges, sciences, fine arts, general literature, and such other branches and departments of education as the trustees may authorize.

SEC. 16. Said trustees shall annually appoint a board of directors of not less than three nor more than seven, whose duty it shall be under the direction of the trustees to examine the qualifications of instructors, and examine the condition of the scholars who may attend said institute at the commencement and close of each term, and often if thought expedient by the trustees, and report the same to the trustees, who shall report annually at the regular meetings of the stockholders.

SEC. 17. The said trustees shall have power at any time to authorize the treasurer to receive, and by due course of law coerce the collection of any and all subscriptions to the capital stock or any portion thereof, all tuition bills or any other dues to said company, by subscription or otherwise, in the name of the corporation, together with costs of suit in any court of competent jurisdiction; and in case any stockholder shall continue in arrears, his privileges as such may be suspended, and said trustees in their discretion declare the same forfeited after a lapse of twelve months, provided that in no case shall any stockholder be liable beyond the amount of his subscription or an equal proportion with other stockholders.

SEC. 18. John B. Moyer, James W. Webb, John M. Riley, H. S. Talbott, Henry Lingle, Jonathan Prosser, William Fisher, Henry R. Williamson, E. H. Taylor, David S. Hufstutter, Hugh Hammer, and Joseph Maxwell, are hereby constituted legal trustees of the said Orleans Institute, to serve as such until the first Wednesday in April, one thousand, eight hundred and forty-one, at which time the stockholders shall have their first annual meeting for the purpose of electing trustees, provided that should the stockholders fail to have a meeting and to hold an election at the appointed time, the corporation shall not thereby be dissolved, but the officers of the company then in office shall continue in office until their successors are duly qualified: *Provided however,* That the legislature shall have the power hereafter to alter, amend, or annul this charter of incorporation.

## CHAPTER XXIX.

An act to amend an act entitled an act to incorporate the Perrysville and Danville Rail Road Company, approved Jan. 26, 1836.

[APPROVED FEBRUARY 13, 1840.]

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That it shall be lawful for the Perrysville and Danville rail road company, if they deem it expedient to do so, to construct a turnpike road

instead of a rail road: *Provided*, That the said company reserves the right to construct a rail road, as provided in the act to which this is an amendment.

SEC. 2. In case said company should determine to construct a turnpike road instead of a rail road as provided in the act to which this is an amendment, then the said company shall be known and designated by the name and style of the president and directors of the Perrysville and Danville turnpike company; and shall be able and capable in law and in equity to sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto, in any and all courts of justice whatever; to make and use a common seal, and the same to alter, change, and renew at pleasure, and shall be able and capable at law to make contracts, and enforce the same, and to make and enforce the necessary by-laws, rules and regulations to enable them to carry into effect the objects contemplated by this act, not inconsistent with the laws and constitution of the state of Indiana.

SEC. 3. The capital stock of said corporation shall be thirty thousand dollars, divided into shares of twenty-five dollars each.

SEC. 4. The directors named in the act to which this is an amendment, or a majority of them, may meet at such time and place as they may agree upon, and organize by electing one of their own body president, and after such organization a majority of them shall be a quorum to do business.

SEC. 5. The corporation shall cause books to be opened for subscription at such time and at such place or places as they may choose, due notice of which shall be given; in each of which books the following entry shall be made: "We the undersigned promise to pay the sum of twenty-five dollars for each share of stock set opposite our names in such manner and proportions and at such time or times as the president and directors of the Perrysville and Danville turnpike company may direct. Witness our hands, this — day of —, 18—."

SEC. 6. The corporation, by their agents, shall have full power from time to time to examine, survey, and locate the route of said turnpike road, commencing at the town of Perrysville in Vermillion county, Indiana, and running on the best ground for the interest of the company and convenience of the public to the state line in the direction of Danville in the state of Illinois, with full power to diverge from the direct line when more favorable ground can be had for the construction of said road; the same not to exceed eighty feet in width.

SEC. 7. As soon as five hundred shares are subscribed and five dollars paid on each share, it shall be the duty of the corporation to give four weeks notice thereof in two of the nearest newspapers to the route of said road, and in such notice to appoint a time and place for the stockholders to meet and elect nine directors, who shall be stockholders and citizens of the state, which election shall be held within three months after the last share in the five hundred shares shall be subscribed for, and shall be conducted by two judges appointed by the stockholders present, and the persons having a plurality of votes given and counted in public shall be declared duly elected. No share

shall confer a right to vote at any election unless the same shall have been held one month previous to the election. In all elections one share shall entitle the holder to one vote, and votes may be given by the person owning the same, or by the husband, father, mother, administrator or guardian, or by the authorized agent of any corporation, state, or of the United States, or any person having a right to vote may vote by proxy.

SEC. 8. It shall be lawful for the county commissioners of Vermillion county, for and on behalf of said county to authorize by order as much of the stock to be taken as they may think proper. The state reserves the right to subscribe for one hundred shares of stock in said corporation within six months from the commencement of the work.

SEC. 9. The corporation may charge and recover such toll from all persons travelling or for the privilege of driving all manner of live stock, wagons and teams, pleasure carriages, sleighs, &c. on said road, or any part thereof as shall be for the interest of the company, and the same to change, lower, or raise at pleasure: *Provided*, That the rates established from time to time shall be posted up in some conspicuous place or places on said road.

SEC. 10. That when the aggregate amount of dividends declared shall amount to the full sum of capital invested and ten per cent. per annum interest thereon, the board doing county business in Vermillion county, may so regulate the tolls and freights that not more than ten per centum per annum on the capital shall be divided, and no other or greater rates of toll shall be collected than shall be necessary to defray the contingent expenses and repairs of said road, but the corporation shall not be compelled by any law or regulation of said board doing county business to reduce the tolls and freights, so that a dividend of ten per cent. cannot be made; and it shall be the duty of said corporation to furnish the said board at the fall term of each year, with a correct statement of the amount of expenditures, and the amount of profits, after deducting all expenses, which shall be made by the proper officer whose duty it shall be to make the same.

SEC. 11. That in the construction of said road the said company shall have and possess all the powers and privileges given to said company, to construct a rail road in the act to which this is an amendment are hereby given to said company to construct a turnpike road; and the said company shall be governed by the provisions of said act in all things not specifically provided in this act.

SEC. 12. The said corporation shall commence the construction of said rail road or turnpike road within five years and shall complete it in ten years from its commencement.

SEC. 13. The legislature shall have power at any time hereafter, by vote of two thirds of each house, to alter, amend, or repeal this charter.

This act to be in force from and after its passage.

### CHAPTER XXX.

An act to amend an act entitled an act to incorporate the Indiana Mutual Fire Insurance Company, Jan. 30, 1837.

[APPROVED, FEBRUARY 18, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the directors of said company be, and they hereby are authorized to settle and pay all losses at only one uniform period in each year subsequent to the annual assessment: Provided, That members sustaining loss or damage by fire shall be allowed interest thereon from the time due notice has been given of such loss until payment is made; and so much of the fourteenth section of said act as is inconsistent with the provisions of this act, be, and the same is hereby repealed.

**SEC. 2.** In all suits by or against said company, any member of said company shall be a competent witness, except in suits in which he or she shall be directly a party: Provided, That such person shall not be otherwise disqualified.

**SEC. 3.** The records of said company, or copies thereof duly authenticated by the signatures of the president and secretary, shall be competent evidence in any suit in which said company may be a party.

**SEC. 4.** In case it shall become necessary to resort to the lien on the property insured, the treasurer shall demand payment of the insured, or his legal representative, and of the tenant in possession, and in case of non-payment, said company may sustain an action on the deposit note, and their execution may be levied on the insured premises, and the officer making the levy may sell the whole or any part of the estate at auction, giving notice, and proceeding in the same manner as is required in sales under execution; or may proceed in equity at the option of the company.

**SEC. 5.** This act shall take effect from and after its passage.

### CHAPTER XXXI.

An act to incorporate the Crawfordsville Female Institute.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That Israel T. Canby, John Hawkins, James Thompson, James Hannah, Hosea D. Humphreys, John Beard, and Francis H. Fry and their

successors in office are hereby constituted a body politic and corporate by the name and style of "The Crawfordsville Female Institute," and by the said corporate name may sue and be sued, plead and be impleaded, in any court of legal proceedings in this state, and by that name have perpetual succession; and they shall in law and by the said name be capable of purchasing, holding, bargaining, selling any property either real or personal, for the use of said institute, whether by legal or equitable title; they shall further be empowered to receive all and singular any subscriptions, gifts, grants, donations, and bequests which shall be solely appropriated to the use and benefit of said institute in such manner as said trustees shall deem most profitable and expedient.

**SEC. 2.** The said trustees shall meet in the town of Crawfordsville at such time and place as a majority of them shall agree upon, and elect of their own body a president, a secretary and a treasurer, to continue in office during the pleasure of said trustees, who shall have power at any time to remove them or either of them from office and fill the vacancy.

**SEC. 3.** The board of trustees shall have full power from time to time to make such by-laws, ordinances and regulations, not inconsistent with the constitution and laws of this state or of the United States, as they may deem advisable for the good government of said institute, pupils and teachers thereof, and the same to be put in execution, revoke, repeal, alter, amend or make anew as to them may seem proper.

**SEC. 4.** The places of any of the trustees who shall die, resign, or remove or refuse to act may be supplied by appointment made by the board of trustees.

**SEC. 5.** The trustees shall cause a record of their proceedings to be kept in a book to be provided for that purpose, which record shall be open for inspection of all persons concerned.

**SEC. 6.** The subscribers to said institute are hereby authorized and empowered to assemble themselves annually at such time and place in the said town of Crawfordsville as the trustees for the time being may appoint, and when so assembled to elect trustees to serve for one year and until their places shall be supplied by others duly elected.

**SEC. 7.** That should no annual meeting of the subscribers be had, the officers then acting shall continue their functions until the next annual meeting.

**SEC. 8.** The interest in shares in said institute shall be transferrable under such rules and regulations as may be prescribed by the board of trustees.

This act to be in force from and after its passage: Provided however, That the legislature reserves the right, at any time hereafter, to alter, amend or annul this charter.

## CHAPTER XXXII.

An act to incorporate the Anderson river Bridge Company.

[APPROVED FEBRUARY 15, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That all persons who shall become stockholders pursuant to the provisions of this act, shall be, and are hereby constituted a body politic and corporate, by the name of "The Anderson river Bridge Company," and by that name shall be capable of adopting a common seal and altering the same at pleasure, of holding real estate sufficient for carrying into effect the purposes of this act, of suing and being sued, defending and being defended, answering and being answered unto, pleading and being impleaded in law and equity in all courts of competent jurisdiction, and shall have authority to ordain and establish such by-laws, rules and regulations, not repugnant to the constitution and laws of the United States and of this state, as shall from time to time be found necessary for the management and good government of the said corporation.

**SEC. 2.** The capital stock of said corporation shall be five thousand dollars, divided into shares of twenty-five dollars each.

**SEC. 3.** That John Daniel, Aquilla Huff, William Huff, John Huffman and Frenerick Conner shall be commissioners to open books for receiving subscriptions to the capital stock of said company, and the said books shall be opened on or before the first day of June next, and each of said commissioners may receive subscriptions.

**SEC. 4.** That whenever sixty shares shall have been subscribed to the stock of said corporation, the said commissioners shall cause an advertisement to be inserted in some newspaper published nearest to the place where said bridge is to be erected, giving at least two weeks' notice of the time and place of meeting of the subscribers to choose directors; and at the time and place appointed, the stockholders shall choose five directors, being stockholders of said corporation, a quorum of whom shall be competent to transact business. A new election of directors shall be held annually at such time and place as the stockholders at their first meeting shall appoint, and the directors chosen, at any election, shall as soon thereafter as may be, choose out of their number one person to be president, and shall appoint a secretary and treasurer.

**SEC. 5.** The directors may demand from the stockholders respectively, all such sums of money by them subscribed, at such times and in such proportions, as they may think proper, and in the penalty of forfeiting their respective shares and all previous payments made thereon.

for the purpose of this bill, or with the consent of those

**SEC. 6.** The said corporation may erect a bridge across Anderson's river in Perry county near the residence of Aquilla Huff: *Provided*, the navigation of said river shall not be obstructed by said bridge.

**SEC. 7.** When said bridge shall be completed, the said corporation may erect and maintain at either end of said bridge, and demand and receive a toll not exceeding the rates following, to wit: Every four-wheeled carriage drawn by four horses or oxen, twenty-five cents, if drawn by two horses or oxen, eighteen and three-fourth cents; every two-wheeled carriage drawn by two horses or oxen, twelve and one-half cents, if by four horses or oxen, eighteen and three-fourth cents; each sled or sleigh drawn by two horses or oxen, twelve and one-half cents; every one horse cart, sleigh, wagon or cutter, ten cents; every man and horse ten cents; every foot passenger six and one-fourth cents; every horse, mule, jackass or head of neat cattle three cents; every sheep or hog one cent; but all persons going to and returning from places of public worship, going to and returning from training when doing militia duty, shall be exempt from paying toll.

**SEC. 8.** If any person shall wilfully impair or injure said bridge he, she or they so offending shall be liable to pay said corporation treble the amount of damages sustained, together with treble costs of suit, to be recovered by action of debt in any court having competent jurisdiction.

**SEC. 9.** If any person shall forcibly pass the gate without having paid the legal toll, he shall forfeit and pay to said corporation five times the amount of the legal toll, with costs of suit, to be recovered before a justice of the peace by an action of debt.

**SEC. 10.** If any toll-gatherer shall unreasonably hinder or delay any passenger at the gate, or shall demand and receive more than legal toll, he shall forfeit for every such offence, the sum of five dollars to be recovered with costs of suit, before any magistrate to the use of the person so hindered or delayed.

**SEC. 11.** Said bridge shall be built not less than fourteen feet wide, and shall be well secured on each side by a railing not less than four feet high, and shall be completed within two years from the time this bill may become a law or this act shall be null and void.

**SEC. 12.** This act to be in force from and after its passage, and to continue for fifteen years: *Provided however*, should the county in which said bridge is situated or the state of Indiana desire to purchase the same, said corporation shall sell said bridge for the cost and ten per cent. thereon.

### CHAPTER XXXIII.

An act to incorporate the Trustees of the Walnut Ridge Cemetery.

[APPROVED, FEBRUARY 15, 1840.]

Whereas, the practice of burying in populous towns is becoming objectionable and more burdensome and expensive to the community, by reason whereof it was thought expedient to make some other provision for the decent respect which is due to the dead, free from the inconveniences above mentioned, and whereas several citizens of this state, hereinafter named, and acting as trustees of the Methodist Episcopal church, have associated for the purpose of establishing a cemetery at Walnut Ridge in the neighborhood of Jeffersonville and State of Indiana, and having purchased a lot containing about ten acres of ground lying on the west side of the road from Jeffersonville to Salem, and about two miles from the former place, and which shall be used only for the purpose of interment, and having desired that they and their successors may be incorporated for establishing and perpetuating such cemetery, with such powers as are necessary for that object: and whereas it seems reasonable and necessary to provide for the permanence of the establishment, so that those who bury there, may be assured of continued protection to remains of relatives and friends who have been committed to the earth, and of the decent preservation of the ground; therefore,

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That James Keigwin, Charles Sleade, and William D. Beach, be and they hereby are made a body politic and corporate in law, under the name and style, and title of the "Trustees of the Walnut Ridge Cemetery, and by that name, shall be able and capable in law to have and to use a common seal, to sue and be sued, to plead and be impleaded, and do all such other things as are incident to a corporation.

*Sec. 2.* That the persons named above shall be trustees and managers of the said Walnut Ridge Cemetery, and shall have power to lay out and ornament the grounds, to dispose of and arrange burial lots, and to make such by-laws, rules and regulations relative to the election of trustees and managers, and their successors, the appointment of suitable officers and agents, and their several duties and compensations, and make such rules and regulations, from time to time, for the government of lot holders and visitors to the cemetery, as they may deem necessary; to purchase ground adjoining, for the purpose of enlarging the burial ground and garden for the superintendent, sexton or other officers: *Provided*, That the extent of the ground to be appropriated under this act shall in no case exceed fifty acres.

*Sec. 3.* That the said trustees of the said Walnut Ridge Cemetery and their successors, shall be able and capable in law, to purchase and hold the said land, and to sell and dispose of the same; and also to have and to hold so much personal estate and no more, as may be necessary

for the purposes of this incorporation, or with the consent of those who now are, or hereafter may be proprietors of the ground not granted for burial lots, to assume the management, direction, and disposal of the same according to the powers herein given.

*Sec. 4.* That no streets or roads shall hereafter be opened through the land of the said corporation occupied as a burial ground, except by and with the consent of this corporation.

*Sec. 5.* The legislature shall have power at any time hereafter to alter, amend or repeal this charter.

This act to be in force from and after its passage.

### CHAPTER XXXIV.

An act to incorporate the Bartholomew County Silk Company.

[APPROVED FEBRUARY 10, 1840.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That all such persons as shall become stockholders pursuant to the provisions of this act, shall be, and they are hereby constituted a body politic and corporate, for the purpose of producing and manufacturing silk in the vicinity of Columbus, Bartholomew county, Indiana, by the name and style of the Bartholomew county silk company; and by that corporate name shall have perpetual succession, and shall be able and capable to sue and be sued, plead and be impleaded, defend and be defended, to answer and be answered unto in law and inequity, and in all courts whatsoever. And they shall also be able and capable to contract and be contracted with, to purchase, acquire, hold, possess, use, have, occupy, and enjoy, either by purchase, mortgage, lease, or assignment, such real and personal estate or property as may be necessary for the accomplishment or security of the purposes of their association, and the same as any part thereof to lease, rent, mortgage, assign, or sell and convey, whenever, and as often as may be necessary or convenient. The capital stock of said company shall be one hundred thousand dollars, which shall be divided into shares of twenty-five dollars each, to be subscribed and paid for as hereinafter directed.

*Sec. 2.* David Newsom, Williamson Terrell, David Deitz, Handy T. Davis, and Ephraim Arnold are hereby appointed commissioners to open books and receive subscription for stock, who, or any one of them shall on the second Monday in February next, open the said books for the subscription of said stock in Columbus, and such other places as they may deem advisable; and said books shall be continued open until one hundred shares of said stock shall have been subscribed for, and so soon as that amount has been subscribed for, the stock-

holders shall meet at such place in Columbus, and at such time as said commissioners shall designate, and under the supervision of said commissioners proceed to elect by ballot a president, seven directors, a treasurer, and secretary, to serve as officers of said company until their successors are duly elected and qualified under the provisions of this act.

SEC. 3. There shall be held annually on the first Monday in March at such place in Columbus as the board of directors shall appoint an election for a president, seven directors, a treasurer, and secretary, who shall serve as such until their successors are duly elected: *Provided*, That no person shall be elected to any of the aforesaid offices, unless he be a stockholder in said corporation. Said elections shall be ballot.

SEC. 4. At all elections each share of stock shall entitle the holder to one vote, which may be given either in person or by proxy; and at all such elections the candidates having a plurality of votes shall be declared duly elected; the said election shall be conducted by the existing board of directors.

SEC. 5. All vacancies in said board of officers shall be filled by the board of directors or the remainder of said board, and any officer ceasing to be a stockholder shall thereby vacate his office.

SEC. 6. Five directors shall form a quorum for the transaction of business, and the acts of a majority of those, with the assent of the president or of four fifths of said quorum without such assent as aforesaid, shall bind the corporation.

SEC. 7. The affairs and business of said company shall be entirely under the direction and management of the president and directors elected and appointed as aforesaid; and they are fully authorized and empowered to do, transact, and perform, for, and in behalf of said company, all and whatsoever the said company are by this act authorized to do, transact, and perform, and to make, appoint, and employ, and at pleasure to remove and discharge any and all necessary agents, attorneys, mechanics and laborers for the purpose of transacting the affairs and performing the business of said company; and to allow them a reasonable compensation for their services. They shall also have power to ordain, make, or establish such rules, ordinances and by-laws as may be necessary for their own regulation, and for directing the conduct of agents, workmen, and such other persons as may be in the employment of said company, not inconsistent with the constitution and laws of this state and the United States. The said president and directors shall also have power to make, use, and adopt a common seal, and to change, alter, and renew the same at pleasure. Said president and directors shall report to the stockholders at their annual meeting a full account of the state of the company.

SEC. 8. The said president and directors shall have power to demand of the subscribers to stock, payment in such part, manner, and at such times as they may deem expedient: *Provided*, That said president and directors shall not at any one time demand more than one fifth of the stock subscribed, and that at least six months shall inter-

vene between each instalment, and if any stockholder shall fail to make payment according to the requirement of the said president and directors, they may in their discretion declare the stock of said stockholder, on which such payment shall not be made, and all previous payments thereon forfeited; whereupon the same shall be taken and held to be absolutely forfeited to said company; or said president and directors may recover the amount of said instalment, together with costs of suit before any court of competent jurisdiction in the name of the corporation, or said president and directors may retain in their hands such dividend or dividends declared on said stock and apply the same to the payment of such instalments so remaining due and unpaid.

SEC. 9. The treasurer shall give bond and security to the satisfaction of the president and directors for the faithful discharge of his duties, and fully accounting for all moneys which may come into his hands as such treasurer; he shall receive all moneys belonging to said corporation, and shall pay the same out on the order of the president and directors; he shall keep full and complete books, and accounts of all his receipts and payments, and as often as required by the president and directors, shall settle his accounts with them; the books and accounts of the treasurer shall at all times be open to the inspection of the president and directors, or any of the stockholders; he shall also report to the stockholders at the annual meeting a full account of the receipts and expenditures during the previous year.

SEC. 10. It shall be the duty of the secretary to attend the annual meetings of said company, and all the meetings of the board of directors of said company, and to enter in books provided for such purpose, a full and accurate statement of the acts and doings of said meetings; he shall write all letters of correspondence for the board of directors, and perform all other writings in any way appertaining to the business of said company. The books of the secretary shall at all times be subject to the inspection of any of the stockholders.

SEC. 11. The stock of said company shall be transferable or assignable on the books of said company, in such manner as shall be prescribed by the president and directors, and shall be held and considered as personal estate, and as such subject to execution against the proprietors.

SEC. 12. The board of directors shall semi-annually on the first weeks in January and July of each year, make out and declare such dividends of the profits resulting from their business as shall not impair or lessen their capital stock, and cause the same to be paid to the stockholders: *Provided*, That no such dividend shall be paid on any stock, whenever any instalment remains due and unpaid, but shall be retained by said president and directors, and applied to the payment of said instalment so remaining due and unpaid.

SEC. 13. The president, directors, secretary, and treasurer, shall receive such compensation for their services, as may be from time to time determined by the stockholders, at their annual meeting.

SEC. 14. Service and process against the corporation shall be made on the president or either of the directors of the company.

**SEC. 15.** In all such contracts, agreements, and undertakings as between natural and individual persons, do not require a seal, the said corporation shall be bound by the signature of the president and the attestation of the secretary, without the seal of the corporation. And all such instruments, covenants, obligations, deeds and conveyances in which by law a seal is required, shall be signed by the president and directors, or a majority of them, and shall be attested by the secretary, and sealed with the seal of the corporation.

**SEC. 16.** This act shall be, and is hereby declared to be a public act, and shall take effect from and after its passage; and may be altered or amended, or annulled at any time by the Legislature.

### CHAPTER XXXV.

An act concerning the incorporation of the town of Brookville, and for other purposes,

[APPROVED FEBRUARY 10, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the petition of the inhabitants of the town of Brookville in the county of Franklin to the board of commissioners of said county for the purpose of incorporating said town under the act entitled an act for the incorporation of towns, approved February 17th, 1838, the proceedings of said board of commissioners thereon, and the election of trustees for said corporation, be and the same are hereby legalized, and that the said town of Brookville is hereby declared legally incorporated under said act: Provided, That nothing herein contained shall be so construed as to effect the rights of individuals, suits or prosecutions commenced prior to the passage of this act.

**SEC. 2.** The funds arising from licences granted by said corporation, under and by virtue of the 19th section of the above recited act, shall be appropriated to the use of said corporation as other moneys belonging to the same.

**SEC. 3.** So much of the 19th section of the aforesaid act as comes within the purview of the second section of this act, as far as regards the corporation of the town of Brookville, be, and the same is hereby repealed.

This act to take effect and be in force from and after its passage.

### CHAPTER XXXVI.

An act to repeal an act to incorporate the Noblesville Insurance Company.

[APPROVED FEBRUARY 22, 1840.]

*Be it enacted by the General Assembly of the State of Indiana, The act entitled as aforesaid, approved on the 15th day of February, in the year 1839, be, and the same is hereby repealed.*

This act to be in force from and after its passage.

### CHAPTER XXXVII.

An act to incorporate the Adelphian Literary Society of Rockville.

[APPROVED FEBRUARY 22, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That L. A. Foote, H. M. McNutt, J. A. Foote, J. P. Noel, D. R. Todd, J. Y. McMillan, A. Danock, J. A. McNutt, J. W. Christian, S. F. Humphries, J. C. Allen, J. C. Cook, J. Danock, D. Danock, J. V. Geiger, J. W. Geiger, J. B. Cornelius, J. M. Anderson, J. Burton, R. H. Simpson, G. G. Donaldson, and their associates and successors, be, and they are hereby constituted a body politic and corporate, with perpetual succession, to be known and distinguished by the name and style of the Adelphian Literary Society of Parke County Seminary, and by that name and style, they and their successors shall be a body politic and corporate, capable of contracting and being contracted with, suing and being sued, answering and being answered unto, in all courts of legal proceedings.

**SEC. 2.** The objects of said society shall be the promotion of literature, the improvement of its members in composition, forensic discussion and scientific knowledge.

**SEC. 3.** Said society is hereby authorized to make all regulations and by-laws, not inconsistent with the constitution and laws of the United States and of this state, necessary for its government and for accomplishing the objects of the association; to make and create all officers necessary for its management and direction, and the same to add to or diminish, and to appoint the manner of electing such officers and limiting the time of their service. Said society may also make such rules for the reception and expulsion of its members as may be necessary.

**SEC. 4.** Said corporation is hereby empowered to have and use a common seal, and the same to alter and renew at pleasure; to hold any amount of personal property in books, maps, charts, papers, a cabinet of minerals and curiosities, and may receive donations in money or property to be appropriated solely to the objects of the society.

**SEC. 5.** The legislature reserves to itself the right to alter, amend or annul this act at any time.

This act to be in force from and after its publication.

## CHAPTER XXXVIII.

An act to incorporate the Wabash Fire Company.

[APPROVED FEBRUARY 17, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That Robert Heath, W. T. Benbridge, W. T. Nelson, H. J. Mulford, J. J. Lupton, E. T. Jenks, J. S. Scott, Marvin Beniss, Joshua Baker, T. T. Benbridge, M. L. Pierce, Joseph Yundt, H. T. Sample, G. W. Smith, J. D. Smith, Joseph S. Hanna, H. W. Harris, E. Barroll, Cyrus Ball, George Nichol, J. G. Moorehead, James McCormick, D. Merritt, G. W. Warwick, John McCormick, Isaac Vore, Laman Phares, John Curtis, James Fry, D. Handley, Jackson Patt, S. A. Adams, T. S. Cox, Isaac Russell, G. H. G. Stackhouse, David Jenners, C. Cassell, Joshua Heath, W. F. Reynolds, and N. H. Stockwell of the town of Lafayette and county of Tippecanoe, and such other persons as may be connected and associated with said Benbridge, Heath, Nelson, Mulford, Lupton, Jenks, Scott, Beniss, Baker, Benbridge, Pierce, Yundt, Sample, Smith, Hanna, Harris, Barroll, Ball, Nichol, Moorehead, McCormick, Merritt, Warwick, McCormick, Vore, Phares, Curtis, Fry, Handley, Patt, Adams, Cox, Russell, Stackhouse, Jenners, Cassell, Heath, Reynolds, and Stockwell, under the restrictions and provisions hereinafter mentioned, and their successors are hereby constituted a body corporate and politic by and under the name and style of "The Wabash Fire Company," and by that name shall be able to sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto, in any and all courts of justice whatsoever, and if they see proper, to make and use a common seal, and the same to alter, change or renew at pleasure, and shall be able and capable in law to make contracts and enforce the same, and to make and enforce the necessary constitution, by-laws, rules, and regulations to enable them to carry into effect the provisions of this act, and all and

every thing properly and necessarily belonging and appertaining to a fire company, and they are hereby invested with all such power as may be necessary to establish and preserve an able and efficient fire company, but have no rights, privileges or immunities for any other purpose or purposes whatsoever, nor can they use the same for any other than the objects contemplated by the provisions of this act, nor shall they make or enforce any constitution, by-law, rule, or regulation inconsistent with the laws or the constitution of the state of Indiana.

**SEC. 2.** The number of members of said company shall not at any time be less than ten nor exceed one hundred and fifty, and the said persons are authorized and empowered to admit as members to said company all persons who are good, able bodied citizens of said town, and over the age of eighteen, who may apply to become members as aforesaid, under such restrictions and provisions and upon such conditions as may from time to time be established by said company.

**SEC. 3.** The said persons so incorporated, or a majority of them, shall, so soon as may be convenient, meet in the town of Lafayette and organize said company by electing of their own body one person to be president, one to be vice president, one to be secretary, one to be treasurer, and seven to be directors, who shall respectively continue in office until their successors shall be elected and are ready to enter upon the duties of their respective offices.

**SEC. 4.** That within one month after said organization they shall proceed to establish such constitution, by-laws, rules and regulations as they may deem necessary for the effective organization of the company, and so soon as forty persons shall be members of said company, they shall proceed to elect out of their own body, persons to fill the several offices above enumerated, who shall immediately after their election, enter upon the duties of their respective offices, and shall continue to discharge the same for such term or terms as may be established by said company.

**SEC. 5.** The company after its organization shall enumerate and specify the duties belonging and appertaining to each office, but no person shall hold more than one office at the same time, except the vice president, who may be a director.

**SEC. 6.** The said company shall have power from time to time to establish a certain rate of fines, forfeitures and penalties for infractions of their constitution, by-laws, rules and regulations for neglect of duty or otherwise, and the same to collect for the use of the company according to law.

**SEC. 7.** Not less than ten members shall constitute a quorum to transact business, and it shall require two-thirds of all the members present at some stated meeting to expel any member for any cause that may be specified in the constitution and by-laws.

**SEC. 8.** Said company may require each and every successive treasurer to give a bond payable to the said Wabash fire company, with sufficient security in such penal sum as the company may from time to time require, conditioned that such treasurer shall duly and faithfully discharge and perform the several duties incumbent upon

him, and faithfully collect, receive, keep and pay out all moneys belonging to said company, according to the provisions of the constitution and by-laws of the company, which said bond shall be executed in the presence of and approved by the acting president of the company, and by him deposited with the clerk of the circuit court of said county, and suit may from time to time be brought upon the same by said company when occasion may require, and by said company for the use of such person or persons as may be aggrieved by the conduct of such officer.

**SEC. 9.** Said company may from time to time receive gifts, grants, donations and subscriptions from any person or persons, body politic or corporate, willing to give the same, and place the same in their treasury, but no money or other property belonging to said company shall ever be expended for any other use or purpose than for the procuring or purchasing of such implements, articles and apparatus as may be necessary for rendering effective said company: *Provided nevertheless,* That said company may at any time by a vote of two-thirds of its members present, donate or present any sum or sums of money in their treasury to such person or persons of said town or within its corporate limits as may hereafter have suffered any loss by any fire or fires within the limits aforesaid.

**SEC. 10.** This act shall be in force from and after its passage, and shall be deemed and taken to be a public act, and shall be construed favorably for all beneficial purposes: *Provided however,* That the legislature reserves the right to amend, alter or annul this charter of incorporation at any time hereafter.

### CHAPTER XXXIX.

An act supplemental to an act amending the act incorporating the town of Princeton, approved Dec. 20, 1838.

[APPROVED FEBRUARY 24, 1840.]

*Be it enacted by the General Assembly of the State of Indiana,* That the third section of the act to which this is a supplement, be, and the same is hereby repealed.

This act to be in force from and after its passage.

### CHAPTER XL.

An act to amend an act entitled an act to incorporate the mayor and common council of the town of Delphi.

[APPROVED FEBRUARY 15, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That it shall be lawful, when any vacancy may exist in the board of common councilmen, or in the office of mayor of said town of Delphi, for the citizens thereof to hold an election at any time, to fill any such vacancy; and councilmen so elected, shall serve till the next annual election, and a mayor so elected, shall serve for the unexpired term of his predecessor, and in every other respect, said election and officers so elected, shall be governed by the act to which this is an amendment, the board of councilmen fixing the time for holding such election, and giving the proper notice thereof.

**SEC. 2.** Should it so happen that there should at any time be no quorum of said councilmen legally in office to order an election as aforesaid, it shall be lawful to hold an election in like manner, to fill any such vacancy as aforesaid, on proper notice being given, signed by not less than twenty voters of said town, a copy of which notice shall be filed in the clerk's office, and a certified copy thereof furnished to the mayor and common councilmen, when they shall be duly qualified, and have entered on the discharge of their duties, and by them entered on record, which shall be prima facie evidence of the legality of any election held in pursuance thereof.

This act to be in force when a certified copy thereof shall be filed in the clerk's office of the county of Carroll.

### CHAPTER XLI.

An act to incorporate the Spencer county Working Mens' Institute for Mutual Instruction.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That John E. Cotton, John Greathouse, B. J. Barney, S. D. Hammond, Mr. Parr, A. J. Patridge, and their associates and successors in office are hereby constituted a body corporate and politic, and shall be known by the name of "The Spencer county Working Men's Institute

for Mutual Instruction," and by that name shall have power to sue and be sued, and to adopt any constitution hereafter approved by said society, and to alter or amend said constitution, to make and use a common seal, to hold real estate and personal property: *Provided* the same consist in such building, lots of land, books, apparatus, and other personal property as may be required for the purposes of the association, and not otherwise: *And provided* the same shall not exceed in value fifty thousand dollars, and to sell or otherwise dispose of the same; and the said association shall have power to make by-laws, and to do and perform all other acts necessary to carry into effect the objects of the institution, not contravening the laws of the state of Indiana or of the United States.

**SEC. 2.** The objects to be promoted by this society shall be the mutual instruction of its members and the promotion of useful knowledge by the aid of books, lectures and apparatus; and its property shall never be applied to any other purpose under penalty of the forfeiture of this charter.

**SEC. 3.** This act may be repealed by a vote of each branch of the legislature, and shall take effect and be in force from and after its passage.

## CHAPTER XLII.

### An act to incorporate the Livonia Guards.

[APPROVED FEBRUARY 13, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That J. C. Wibb, L. H. Smith, and J. A. McPheeters and their associates and successors be, and they are hereby constituted and declared to be a body corporate and politic, by the name and style of the "Livonia Guards," and by that name shall have perpetual succession, with full power to contract and be contracted with, to sue and be sued, plead and be impleaded in any court of law or equity, to make and use a common seal, and the same to alter at pleasure; to elect their own officers, to make, ordain, establish and enforce such by-laws, rules and ordinances, not inconsistent with the laws and constitution of the United States and of this state, as they shall deem necessary for the welfare and better government of said company.

**SEC. 2.** Said company shall be subject to the civil laws and ready whenever called on by the proper authorities thereof, to turn out for the purpose of aiding in suppressing all riots and insurrections which may happen within the county of Washington and elsewhere.

**SEC. 3.** Said company shall have power to assess and collect such fines for non-attendance on parade at any muster of said company, for deficiencies in equipment, for all contempts, and disobedience of orders or unsoldierlike conduct on parade, as may be established and fixed by the by-laws of said company, and shall also have power by a vote of a majority of the company present, to expel any member or members for any of the causes aforesaid, or for any other cause which may be deemed sufficient to justify such expulsion: *Provided*, That in all cases of expulsion that it shall be necessary for not less than two-thirds of the members of said company to be present and vote.

**SEC. 4.** All violations of the rules, regulations, and by-laws of the said company or other delinquencies or misconduct, shall be noted by the proper officer and reported to a board of assessment, to be constituted of the commissioned officers of said company, who, or a majority of whom, shall meet annually on the third Monday of November, in the said town of Livonia, in Washington county, and receive such report, and assess such fine or fines as may be authorized by the by-laws of said company, the highest or senior officer present shall act as president of the board. The said board shall have power to appoint a secretary, whose duty it shall be to record the proceedings of said board, and to make out and certify two fair lists of the persons fined at such court or board, together with the cause and amount of such fine, and post up such lists at two of the most public places in said town, within ten days next after the adjournment of said board or court. Said board shall also have power to hear and consider all such excuses or defences which may be offered by any delinquent, and hear the testimony of witnesses, and the president of the said board is hereby authorized to administer all oaths and affirmations necessary in the progress of such examinations: *Provided*, That no officer, non-commissioned officer or private shall be fined without first having had three days' notice in writing, previous to the sitting of said board or court of assessment.

**SEC. 5.** After the lists as aforesaid shall have been kept posted up as hereinbefore directed ten days, any person or persons charged therein with a fine, having failed or refused to call upon the treasurer of said company and pay and discharge such fine by voluntary payment, it shall thereupon be the duty of the treasurer of said company, to institute action of debt, in the corporate name of said company before any court of competent jurisdiction thereof, against any person or persons so fined as aforesaid, and proceed to collect the same as in other cases.

**SEC. 6.** All fines so assessed and collected as aforesaid shall be appropriated for the exclusive benefit of said company, and shall be laid out and expended pursuant to the by-laws of the said company.

**SEC. 7.** That any person or persons subject to militia duty in the county of Washington may be admitted members of said company, by a compliance with the foregoing requisitions of this act.

**SEC. 9.** That the said company shall be subordinate to the militia laws of this state, and shall perform duty as required therein, and may also provide in the by-laws of said company, for such number of extra

trainings as may be necessary, to be held on such days, and at such places, as said company may deem necessary and also to elect the officers thereof, both civil and military that may be necessary.

SEC. 9. That said board or court of assessment may hold adjourned meetings, and other meetings called by the president or secretary, for all necessary purposes herein authorized.

SEC. 10. That the legislature reserves the right at any time hereafter to amend, alter, or repeal this act of incorporation.

This act to take effect and be in force from and after its passage.

### CHAPTER XLIII.

#### An act to incorporate the Lagrange Collegiate Institute.

[APPROVED, FEBRUARY 13, 1840.]

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That Nathan Jenks, Joshua T. Hobbs, Thayer H. Coderig, Aaron Thompson, Joel K. Salman, Cyrill W. Wilson, and Charles Mosher, with their associates and successors be, and they are hereby created a body politic and corporate, to be styled the "Board of Trustees of the Lagrange Collegiate Institute, and by that name to remain in perpetual succession, with full power to acquire, hold, and convey property real and personal, to sue and be sued, plead and be impleaded, to have and use a common seal, to alter and renew the same at pleasure, to make and alter from time to time such by-laws as they may deem necessary for the government of said institution, provided such by-laws shall not be inconsistent with the constitution and laws of the United States and of this State.

SEC. 2. The trustees of said institution, may establish under this charter, on the location they have made, so many of the departments of liberal education, as they deem necessary for the public good, and their means will permit, and confer upon those whom they deem worthy, such honors and degrees as are usually conferred in similar institutions.

SEC. 3. The board of trustees shall have power to increase their numbers to eighteen exclusive of the president of the institution, who shall be *ex officio* president of the board, and fill such vacancies as may occur, and a majority of their number shall constitute a quorum to do business. They may also appoint a faculty, consisting of a president, professors, tutors and teachers, and such other officers and agents as the interests of said institution requires, and displace any of the same, for good and sufficient reasons, and prescribe the course of study in said institution.

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SEC. 4. The trustees shall faithfully apply all funds, which they shall receive, as they shall judge will best promote the usefulness of their institution: *Provided, nevertheless,* that if in any case, donations or bequests shall be made, and received by them for particular purposes, not inconsistent with the designs of this institution, every such donation shall be applied in conformity to the designs of the donor.

SEC. 5. All process against this corporation shall be by summons, and the service of the same shall be by leaving an attested copy thereof with the treasurer of the institution, at least ten days before the return day thereof.

SEC. 6. This board of trustees shall hold their first annual meeting on the first Monday in May, 1840, at Ontario, in the township of Lima, Lagrange county, and shall meet on their own adjournment.

SEC. 7. The legislature by a vote of two-thirds of each house, may amend this charter of incorporation, whenever they may deem it necessary.

### CHAPTER XLIV.

#### An act to incorporate the Patriot Silk and Trading Company.

[APPROVED, FEBRUARY 24, 1840.]

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That Joshua Hicks, Ingersol Dibble, Bela Herrick, Francis Tripp, Thomas Foster, William Clark, M. L. Edwards, their associates and successors be, and they are hereby declared a body politic and corporate, with the name and style of the "Patriot Silk and Trading Company."

SEC. 2. The said corporation shall have power to sue and be sued, plead and be impleaded, contract and be contracted with; to make and use a common seal, and the same to alter at pleasure, and to make such rules and regulations for their own government, as may not be contrary to the provisions of this act, the constitution and laws of this state, and of the United States.

SEC. 3. The capital stock of the company shall be limited to one hundred thousand dollars, which may be extended to any amount not exceeding five hundred thousand dollars to be paid in such time and manner as the trustees thereof, may direct; provided that all propositions for increase be submitted to the company, not less than thirty days before it shall be acted on.

SEC. 4. The capital stock shall be divided into shares of five dollars each, and each shareholder shall be entitled to one vote for every share he may hold, provided that no person shall ever be entitled to

more than fifty votes, and that the voting may be either in person or by proxy.

**SEC. 5.** The said company shall have power to purchase and hold whatever real or other property that may be necessary to the production of silk, and the prosecution of their business, and the same against to sell, provided that they shall not at any time own more than three thousand acres of land.

**SEC. 6.** The officers of the company shall consist of a president, four vice-presidents, a treasurer, and a secretary, to be elected annually, and to hold their offices until their successors are elected. These officers shall constitute a board of trustees, which shall have charge of the general interests and business of the company, subject to its direction. Five of their number shall constitute a quorum for the transaction of business.

**SEC. 7.** The said board of trustees shall cause to be kept books in such a manner that at any time they will give a full expose of the whole standing, transactions, and state of the concerns of said company, which books shall at all times be open to the inspection of all persons concerned, in any respect, with said company, either as stockholder or creditor of said company; and at such annual meeting of the stockholders, make a complete exhibit of the same.

**SEC. 8.** Until the said company shall be organized, the persons mentioned in the first section of this charter are authorized to act as trustees thereof.

**SEC. 9.** In all suits against said company, it shall be sufficient for the plaintiff to serve process either at the office or on any of the trustees thereof.

**SEC. 10.** This act may at any time be altered or repealed by the legislature.

## CHAPTER XLV.

An act to incorporate the Indianapolis Typographical Society.

[APPROVED, FEBRUARY 24, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That John Dougherty, William H. May, James B. Gentle, John S. Cole, William H. Lewis, David George, Marcus A. Story, Enoch May, A. Coats Brewer, W. Gates Russell, Asaph G. Spalding, Richard Randall, Jesse Brandon, Charles G. Warner, Thomas Y. Russell, Moore Galway, Henry Gaver, Samuel A. King, Benjamin Vandegrift, and their associates, together with such others as may be associated with them hereafter, be, and they hereby are, created a body corporate and politic, in perpetual succession, by the name and style of "The Indian-

apolis Typographical Society," and by that name shall be competent to contract and be contracted with, to sue and be sued, plead and be impleaded, defend and be defended in all courts of justice whatever, with full power and lawful authority to acquire, hold, use, occupy and enjoy, by purchase, gift, grant, or devise, such real or personal estate as shall be necessary or convenient to carry into effect the benevolent objects of the corporation, and the same to sell and convey as to them shall appear fit and proper; to make, have, and use a common seal, and the same to break, alter or renew at pleasure; and also to make, ordain, establish, and put in execution a constitution, and adopt by-laws for the government of said corporation, the regulation of its fiscal concerns, the admission of its members, and the appointment of its officers, together with all powers for the corporate existence, and the proper and efficient management of its concerns: *Provided*, That the annual income of said corporation shall not exceed the sum of five hundred dollars: *And provided further*, That no article of the constitution, by-laws, rules or regulations, shall in any wise be contrary to the constitution and laws of this state or of the United States.

**SEC. 2.** That the objects of this society shall be to afford relief to deserving indigent members, their widows and orphans; and to preserve the honor of the profession, by the adoption of such measures as shall to them appear necessary for the encouragement of industry, sobriety, good order, and morality among its members.

**SEC. 3.** That the officers of this society shall be a president, vice-president, secretary, treasurer, and a standing committee of three, who shall be elected at such times, and shall perform such duties as shall be required by the constitution and by-laws adopted in conformity with the provisions of this act.

**SEC. 4.** That any future legislature shall have power to repeal, alter, amend, or modify this act; but such repeal, alteration, amendment or modification, shall not divert the property or funds of said corporation from the purposes expressed therein.

This act to take effect and be in force from and after its passage.

## CHAPTER XLVI.

An act to revive an act to incorporate the Lagrange county Manufacturing Company.

[APPROVED, FEBRUARY 13, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That an act to incorporate the "Lagrange county Manufacturing Company, approved February 8th, 1836 be, and the same is hereby revived, and shall remain in full force.

**SEC. 2.** The charter to which this is an amendment, and which is

hereby revived, shall be subject to amendment or repeal at the pleasure of the legislature.

This act to take effect and be in force from and after its passage.

## CHAPTER XLVII.

An act to repeal an act entitled an act to incorporate the Greencastle Savings Institution and Manufacturing and Trading Company, approved, February 16, 1839.

[APPROVED, FEBRUARY 24, 1840.]

*Be it enacted by the General Assembly of the State of Indiana, That an act entitled an act to incorporate "The Greencastle Savings Institution and Manufacturing and Trading Company," approved February 16th, 1839, be, and the same is hereby repealed.*

This act to be in force from and after its passage.

## CHAPTER XLVIII.

An act to incorporate the Cass Guards.

[APPROVED, FEBRUARY 24, 1840.]

**Sec. 1.** *Be it enacted by the General Assembly of the State of Indiana, That the provisions of an act entitled an act to incorporate the Governor's Guards of Evansville, approved February 11th, 1839, be, and the same are hereby extended to S. S. Tipton, James H. Kintner, Job B. Eldridge, George Wicrick, James W. Dunn, George Rush, Jesse C. Douglass, and their associates and successors, of Cass county, under the name and style of "The Cass Guards," except so far as is hereafter provided.*

**Sec. 2.** Said company shall be subject to the civil power, and ready whenever called on by the same to turn out for the purpose of aiding in quelling and suppressing all riots and insurrections which may happen within the county of Cass.

**Sec. 2.** Said company shall have power to purchase, hold and convey such real estate as may be necessary for carrying out the provisions of this act, or for erecting, purchasing, or holding any building or buildings necessary for the purpose of a store house for arms or other purposes connected with their duties as a military company.

This act to be in force from and after its passage: *Provided however,* That the legislature reserves the right at any time, hereafter, to alter amend, or repeal this act of incorporation.

## CHAPTER XLIX.

An act to incorporate the Washington Band of Musicians.

[APPROVED FEBRUARY 15, 1840.]

**Sec. 1.** *Be it enacted by the General Assembly of the State of Indiana, That Abraham Dennis, William Lee, James H. Weir, Thomas J. Nixon, Stark Mauzey, Robert Neeley, Elisha Young, Samuel C. James, Andrew Weir, H. D. Henderson, H. B. Malott, John Mitchell, Walter Booth, Milton Henderson, Hiram Peck, Samuel Read, John Harger, Charles C. Hart, W. J. Hattabough and James T. Young, of the county of Washington, their associates and successors be, and they are hereby constituted a body politic and corporate, and shall be known by the name and style of the Washington Band, and by that name shall have power to contract and be contracted with, to sue and be sued, plead and be impleaded in any court of legal proceedings; they shall have power to elect or appoint their own officers in such way and manner as may suit them, to ordain and enforce such rules and by-laws as they may see proper, not inconsistent with the constitution and laws of the United States or of this state.*

**Sec. 2.** *That so much of the act incorporating the Marion Guards, approved February 14th, 1838, as they may see proper to adopt, be, and the same is hereby extended to the Washington Band: *Provided, however,* That before they shall have the benefit of said act, they shall cause a manuscript copy of such part or parts thereof, attested by their proper officers, to be placed in the office of the clerk of the Washington circuit court.*

**Sec. 3.** *This act to take effect and be in force from and after its passage. *Provided, however,* That the legislature reserves the right to amend, alter, or annul this charter of incorporation at any time hereafter.*

## CHAPTER L.

An act to incorporate the Leesburgh School Society.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That John Shelby, Jonas Hacker, Elijah S. Blue, Arnold Cain, John B. Chapman, Josiah Brant, James Blair, Martin Keishner and Alexander Blair, and their associates, are hereby constituted a body corporate and politic, and shall be known by the name and style of the Leesburgh School Society, to be established in Leesburgh, Kosciusko county, and by that name shall have power to sue and be sued, to form a constitution, and alter the same at pleasure, so as not to be in violation of the constitution of this state nor the constitution of the United States, to use a common seal, to hold property, both real and personal, to buy and sell, and otherwise dispose of the same at pleasure, and shall have power to make by-laws and do and perform all other acts necessary to carry this act into full effect.

**SEC. 2.** The officers of this society shall consist of five trustees, a secretary and treasurer; and before entering upon the duties of their said office, take an oath of office.

**SEC. 3.** The trustees shall be elected annually on the first Saturday in May by the subscribers to said school society, according to the constitution of said society; and the above named John Shelby, Jonas Hacker, Elijah S. Blue, Arnold Cain, and John B. Chapman are hereby empowered to act as such trustees until the annual election, and until their successors are elected and qualified into office.

**SEC. 5.** The said trustees, or a majority of them, shall form a quorum to do business, and shall appoint a treasurer and secretary to said board.

**SEC. 5.** The property, both real and personal, now belonging to the company of individuals, under the name and style of the Leesburgh School Society, shall vest in this corporation from and after the passage of this act.

**SEC. 6.** That all persons who shall subscribe themselves as members to the Leesburgh School Society, according to the requisitions of the constitution of said society, shall be considered members thereof, and be entitled to vote at elections under the rules and regulations prescribed by the laws of that society.

**SEC. 7.** The said society are hereby authorized to borrow money on their own credit, for the purpose of carrying into effect the object of said society, on such terms and conditions as they can negotiate a loan.

**SEC. 8.** *Be it further enacted,* That the seminary funds now on hand in the said county of Kosciusko be put in the said Leesburgh School Society for the purpose of aiding and assisting in the erection of suitable buildings for the keeping a seminary of learning: *And pro-*

*vided,* That the said Leesburg School Society, shall appropriate any of the said seminary funds of said county for the erecting of buildings or other for the purpose of education. The school of said society shall be open and free to all scholars of the county on the same terms and on an equal footing with any other scholars of said society.

The legislature reserves the right to alter, amend or annul this charter at any time hereafter, and this act to be in force from and after its publication.

## CHAPTER LI.

**AN ACT TO ESTABLISH CERTAIN STATE ROADS THEREIN NAMED, AND FOR OTHER PURPOSES.**

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the county road commencing at the northwest corner of section nineteen, in township eighteen, range nine east, on the state road leading from Mills' mill in Wayne county to the falls of Fall creek in Madison county; thence running to the Lewisville and Middletown state road, at the northeast corner of Alexander Stewart's land, in section twenty-eight, in township eighteen, range nine east, all in the county of Henry, is hereby declared a state road; and it is hereby made the duty of the supervisors to proceed as soon as convenient to open said road a suitable width on said line.

**SEC. 2.** That so much of the Greensburgh and Franklin state road as passes through the town of East Franklin, in Johnson county, be, and the same is hereby so changed and re-located, as that the same, from the point at which it leaves the Madison and Indianapolis state road, shall run through said town of East Franklin, with and along the street running east and West and contiguous to the south ends of lots numbered eight and nine therein.

**SEC. 3.** That John W. Miller, of the county of Miami, is hereby appointed a commissioner, to view, mark and locate a state road to commence on the Logansport and Fort Wayne state road near David Casebeers in Cass county; thence on the north side of Wabash and Erie canal, as near thereto as the public interest may require, intersecting the Logansport and Fort Wayne state road at the canal bridge, opposite the mouth of the Mississinawa river.

**SEC. 4.** That Henry Luellen be, and he is hereby appointed a commissioner to view, mark and re-locate that part of the New Castle and Indianapolis state road, commencing where the same crosses Joseph Draper's mill race in Henry county; running thence east until it intersects the New Castle and Greensborough state road, instead of

running north to intersect the New Castle and Pendleton state road as now located, and so soon as said road is re-located, and opened for the convenience of travelers, the old road between the points aforesaid shall be vacated.

SEC. 5. That Henry Enlow, Richard Harbison and Henry Baker, sen. or any two of them, be, and they are hereby appointed commissioners to view, mark and locate a state road on the nearest and best route, commencing at Jasper in Dubois county; from thence to some point on the Paoli and Pittsburgh state road in the direction of Paoli; and the commissioners employed in the location of said road shall each be allowed the sum of one dollar per day out of the treasury of said county.

SEC. 6. That Jackson Hinkle of the county of Sullivan and Austin Medley of the county of Knox, be, and they are hereby appointed commissioners to view, mark and locate a state road from Edwardsport in the county of Knox to a point on the state road leading from Vincennes to Eel river near Philip Hinkle's in Sullivan county.

SEC. 7. That John F. Heaton of the county of Ripley, David Elliott of the county of Jennings, and Nataniel Robbins of the county of Decatur, be, and the same are hereby appointed commissioners to view, mark and locate a state road from the town of Marion in Ripley county, on the nearest and best route to the town of Zenia in Jennings county; thence on the nearest and best route to the town of Rockville in Decatur county.

SEC. 8. That Amos White, junior, be, and he is hereby appointed commissioner to view, mark and locate a state road commencing at the termination of the state road on the west line of Tippecanoe county, which was located with a view to extend the said road to Sugar Grove by an act approved February the 7th, 1835, said road to commence at the termination of said Lafayette road on the west line of said county; thence the nearest and best way to the crossing of Big Pine at Milton Jennings; thence to intersect the state road leading from Attica to the state line on a direction towards Chicago, as near the southeast part of Parish's Grove as will permit; thence northwest-  
erly to the state line so as to intersect the Hennepin, Illinois, state road.

SEC. 9. That Amos Owen, C. J. Barackman and Josiah Owen, be, and they are hereby appointed commissioners to view, mark and re-locate so much of the state road authorized in an act to locate a state road in Greene county, approved February 8th, 1839, as lies between White river and James' Stalcups; so that said road, after leaving the crossing of White river, shall be taken on the nearest and best ground, so as to intersect the Smith ferry road at or near the residence of Josiah Owen, on the said Smith ferry road, east side of White river.

SEC. 10. That Elijah Lindsay, Hugh Noyes, and Cornelius Miller, be, and they are hereby appointed commissioners to review, mark, and re-locate on the nearest and best ground, having due regard to private property, the seventh and eighth miles of the state road leading from Rising Sun to Versailles.

SEC. 11. That the county road running from Rockford by the way of Reddington to the boundary line of Jackson and Jennings counties, be, and the same is hereby declared a state road; and it shall be the duty of the board doing county business in the county of Jackson, to cause said road to be opened and kept in repair, in the same manner that other state roads are opened and kept in repair.

SEC. 12. That Allen Cole be, and he is hereby appointed a commissioner to change a part of the state road leading from Strawtown to Pendleton in the county of Madison, and locate it as follows, to wit: Beginning where said road crosses the line dividing the land of James Dennend and Robert P. Hoddy; thence north with said line to the New Castle and Lafayette state road; thence west to where the said Strawtown and Pendleton state road intersects said New Castle and Lafayette state road.

SEC. 13. That Jacob Baker of Kosciusko county, be, and he is hereby appointed a commissioner to view, mark and locate a state road beginning at Laketon in the county of Wabash, and running thence to intersect the Lagro road on section thirteen, in township thirty-one, north of range six east in Kosciusko county.

SEC. 14. That Solomon Wright of Grant county, be, and he is hereby appointed commissioner to view, mark and locate a state road, commencing at the ninety mile stake on the Ohio line, and running thence to Portland, the county seat of Jay county; thence to Camden in said county; thence crossing the Salamonie river and running in a southerly direction until it intersects the half section line of section thirty-four, township twenty-four, range twelve east; thence west to the south side of Beal's prairie; and thence to Marion, the county seat of Grant county.

SEC. 15. That an act to locate a state road in Wayne county, approved February the 16th 1839, be, and the same is hereby repealed.

SEC. 16. That Jesse Martindale, be, and he is hereby authorized to change so much of the Peru and Warsaw state road as runs through his own land, provided he does not increase the distance more than thirty rods and opens said proposed change and puts it in as good repair as the old road now is, at his own expense.

SEC. 17. That Joshua Simpson of Wabash county be, and he is hereby appointed a commissioner to view, mark and locate a state road from Liberty Mills in Wabash county, to Raccoon village in Allen county.

SEC. 18. That Jacob Wilkinson of the county of Miami, be, and he is hereby appointed a commissioner to view, mark and a state road commencing on the west side of Eel river on the township line dividing townships twenty-seven and twenty-eight; thence east on or as near the township line as the nature of the ground will admit until it intersects the Logansport state road on the south side of Eel river.

SEC. 19. That Henry Hoover of the county of Fulton, be, and he is hereby appointed a commissioner to view, mark and locate a state road commencing where the Fort Wayne and Rochester state road crosses the township line between townships twenty-nine and thirty

north, range five east; thence on the north boundary of section three; thence the nearest and best route, passing Henry Hoover's in section thirty-three, in township thirty north, range four east, near Henry Hoover's mill; thence on the nearest and best route, passing the south side of Manitou lake, intersecting the Michigan road at the public square, in the town of Rochester, the county seat of Fulton county.

SEC. 20. That Hiram King, Hamilton Badger, and William H. Potter be, and they are hereby appointed commissioners to view, mark and locate a state road from the Fort Wayne and Lima road, near the centre line of township thirty-four north of range eleven east, thence on the nearest and best ground to Shrihock's mill on Big Cedar in Allen county.

SEC. 21. That Job Garner of Delaware county, be, and he is hereby appointed a commissioner to view, mark and locate a state road, commencing at the Pipe creek summit level in Madison county, thence on the most suitable ground to intersect the state road running through the town of Wheeling, at or near William McCormack's, in said Delaware county.

SEC. 22. That John Hunter, Mesheck Hiatt of Ripley county, and Jacob W. Eggleston of the county of Dearborn be, and they are hereby appointed commissioners to view, mark and locate a state road on the nearest and best ground, having due regard to private property, from Versailles in Ripley county, by way of George A. Pool's in said county of Ripley, to Dillsborough in Dearborn county.

SEC. 23. That William Sanders of the county of Crawford, David McDonnal of the county of Orange, and John Kellums of the county of Dubois be, and they are hereby appointed to view, mark and locate a state road commencing at Robert Sanders' in Crawford county, thence on the nearest and best ground, via Newton Stewart's in Orange county and Knoxville in Dubois county, to the most convenient point on the Portersville state road in the direction of Porterville.

SEC. 24. That William Turner and Joshua Foster of the county of Boone, be, and they are hereby appointed commissioners to survey, mark, and locate a state road, commencing at the termination of the Mooresville road, on the line between the counties of Boone and Hendricks, thence north to Enoch Thornley's on the Indianapolis and Lafayette state road, in Boone county.

SEC. 25. That Andrew Fender of the county of Owen, and Nathan Birchfield of the county of Clay, be, and they are hereby appointed commissioners to view, mark and locate a state road from Spencer in Owen county, on the nearest and best ground to Anquilla in the county of Clay. Each county shall pay their own commissioners.

SEC. 26. That Samuel Arther, Felix Mills and Johnson Ferris be, and they are hereby appointed to view, mark and locate a state road, to commence at the town of New-Harmony in the county of Posey, on the nearest and best ground, having due regard to private property and individual rights, via Springfield to West Franklin in said county.

SEC. 27. That Jesse Vermilya of the county of Allen be, and he

is hereby authorized to view, mark and locate a state road to commence at or near the Aboit aqueduct on the Wabash and Erie canal in the county of Allen, thence on the nearest and best route to intersect the state road leading from Fort Wayne to Indianapolis, at or near the point where said road crosses Longlois creek in Wells county.

SEC. 28. That Christian Parker of the county of Allen, be, and he is hereby authorized to view, mark, and locate a state road, to commence at Cole's ferry on the Maumee river in Allen county, running thence north along the new county road to the three mile tree, thence along the west line of section twenty, township thirty-one, range thirteen; thence up the St. Joseph's river, as near the same as practicable to the Ohio state line.

SEC. 29. That Moses Dudley of Fountain county, be, and he is hereby appointed commissioner to view, mark and locate a state road from the farm of Jacob Hawk in Fountain county, to Pleasant Hill in Montgomery county, it being an extension of a state road, now terminating at the farm of the said Jacob Hawk, and that the said commissioner is hereby allowed the privilege of varying one mile north or south, from a direct course, in locating said road.

SEC. 30. That A. Huff of the county of Spencer, and C. Jennings and Leven Wright of the county of Perry be, and they are hereby appointed commissioners to relocate that part of the state road leading from Troy to Jasper which lies between the farms of Edmund Jennings in Perry county and Thomas Sanders in Spencer county; and the said commissioners shall be governed by the act defining the duties of commissioners and for other purposes, approved Feb. 1st, 1834.

SEC. 31. That Henry Glassford and Valentine Rothrock of the county of White, be and they are hereby appointed commissioners to view, mark, and locate a state road commencing at Monticello the county seat of White county, thence to run on the best ground so as to intersect the Logansport and Michigan City state road at the bridge on Big creek.

SEC. 32. That so much of the county road commonly called the Huff's mill road, as lies between Jesse Beard's in Shelby county and the point at which the same intersects the Greenfield and Franklin state road in Johnson county, be, and the same is hereby declared a state road.

SEC. 33. That John Ratliff of the county of Morgan, be, and he is hereby appointed a commissioner to view, mark, and locate a state road from the town of Monrovia in the county of Morgan, to the outlet of the lake in said county, thence the nearest and best way to Mill Grove in Owen county. The said commissioner to be governed in all respects by the general law on the subject of state roads in the discharge of the duties hereby assigned him. The compensation of said commissioner shall be one dollar per day, for the time necessarily spent in the location of said road; to be allowed by the board doing county business in the county of Morgan.

SEC. 34. That John M. Clark and Joseph Wood of the county of Clinton, and James Gray of the county of Carroll, be, and they are

hereby appointed commissioners to view, mark and locate a state road from the widow Julia Pence's, near Frankfort in the county of Clinton, to Adams' Mills in Carroll county. Said commissioners shall, after examining carefully the route of the present county road between the aforesaid points via Alexander Compton's and James Chaney's in Clinton county and Lexington in Carroll county; also the route from Alexander's on the half section line to the line of Carroll county, and thence to said Adams' mill in Carroll county; and also from Alexander's via Maxwell's mill, Chaney's, to Lexington, and thence to Adams' mill; and taking into consideration the advantages and disadvantages of the several routes, shall determine which in their opinion will most advance the public interest and convenience, shall fix upon and determine which of said routes shall be established as a state road, and shall locate and mark the route thereof.

SEC. 35. That Joshua Lindsay of the county of White, and Thompson Barret of the county of Cass be, and they are hereby appointed commissioners to view, mark, and locate a state road commencing at West Bedford in the county of White, thence to the Tippecanoe river at the old Indian skin press, thence to Logansport in Cass county.

SEC. 36. That the county road as now established from Martinsville in Morgan county to Franklin in Johnson county, by the way of Statt's creek, be, and the same is hereby declared a state road.

SEC. 37. That the county road leading from Philadelphia on the National road in Hancock county to William Pearson's mill in said county is hereby declared and established a state road.

SEC. 38. That Owen Jarrett of Hancock county be, and he is hereby appointed a commissioner to view, mark, and locate a state road, commencing at William Pearson's in said county, thence the nearest and best way, so as to intersect the Greenfield and Pendleton state road, near the southern boundary of Madison county; and the board of commissioners of Hancock county shall allow the said commissioner one dollar per day for each and every day he may necessarily be employed in the location of said road.

SEC. 39. That Joseph Weeks of the county of Orange, David Rice of the county of Crawford, and Jacob Lasher of the county of Perry, be, and they are hereby appointed commissioners to view, mark and locate a state road from the town of Paoli in the county of Orange, by way of Newton Stewart's to Troy on the Ohio river, in the county of Perry.

SEC. 40. That Samuel Windney and W. A. Squires of De Kalb county, and Thomas Devalt of Allen county, be, and they are hereby appointed commissioners to view, mark, and locate a state road, commencing at the state road running north and south along the western bank of Little St. Joseph river at the boundary line between the counties of De Kalb and Allen; thence west on said line as near as practicable to the corner of section thirty-four and thirty-five, or near thereto, in township thirty-two north of range twelve east; thence on a south-westerly direction on the best ground to Shryock's mill.

SEC. 41. That William Barlow, Ebenezer Jones, and Charles Hankins of the county of Daviess be, and they are hereby appointed commissioners to review, remark, relocate a certain state road beginning at the town of Washington in Daviess county and running thence to Portersville in Dubois county on the nearest and best route between said towns; and said commissioners shall meet at Washington in Daviess county on the first Monday of May next ensuing, or some subsequent day, and after being duly sworn, shall proceed to review, remark, and relocate said road and lay the same on the nearest and best line between said towns; for which services the board of commissioners of Daviess county shall allow the said commissioners a reasonable compensation.

SEC. 42. That Samuel Moore Esq. of Delaware county, be, and he is hereby appointed a commissioner to view, mark, and locate a state road, commencing on the Richmond and Logansport state road at the corner of Mowery H. Thompson's fence in said county of Delaware, thence north to Main street in the town of Wheeling, thence with the county road to Joseph Wilson's town, called Elizabethtown, thence on a straight line to the centre of section eighteen, township twenty three in range ten, thence on a straight line to Montpelier on the Salamonia river.

SEC. 43. That Peter Lawson, William Cochran, and Charles Turner be, and they are hereby appointed commissioners to view, mark, and locate a state road from the crossing of the Elkhart on the road from Benton to Pleasant Lake, from thence to Pleasant Lake, and from thence to the Ohio state line.

SEC. 44. That Samuel Mahan, of the county of Allen, Archibald Mahan, of the county of Huntington, and James Parrott, of the county of Whitley, be, and they are hereby appointed commissioners to view, mark, and locate a state road, to commence at the town of Tracy, Huntington county, on the Wabash river; thence on the nearest and best route to section twenty-seven, in township twenty-nine, in range ten east, on the Wabash and Erie canal, thence the nearest and best route to the county seat of Whitley county.

SEC. 45. That John Lamon of the county of Huntington be, and he is hereby appointed a commissioner to view, mark, and locate a state road from the mouth of the Salamonia river, commencing on the south side of said river, near or at the ford of the Wabash river where the Marion and Lagro state road crosses the same; thence on the south side of the Salamonia to Charleston, thence on the south side to Warren; thence on the north side the nearest and best way to Camden in Jay county, thence on the nearest and best route to Portland in Jay county, thence to some suitable point on the Ohio state line.

SEC. 46. Whereas, an act passed this Assembly at its session in the year 1836, establishing a state road on the county road leading from Indianapolis through Germantown, to Pendleton in the county of Madison; and whereas it has been represented to this General Assembly, that the commissioner appointed to locate said road, deviated from

the route contemplated by said act, and located said road through a swampy tract of land, therefore

*Be it enacted by the General Assembly of the State of Indiana,* That That John T. Kineman be, and he is hereby appointed a commissioner to locate and establish said state road along said county, as contemplated and ordered by said act.

SEC. 47. That so much of the New Albany and Vincennes state road as lies between New Albany and Paoli be, and the same is hereby declared vacated.

SEC. 48. That Mitchener Lucker of Cass county, and John Troutman of Fulton county be, and they are hereby appointed commissioners to view, mark, and locate a state road from Logansport in Cass county, to intersect the state road running from Plymouth in Marshall county, to Laporte in Laporte county, at some suitable and convenient point.

SEC. 49. That Robert Gray, of Cass county be, and he is hereby appointed a commissioner to view, mark, and locate a state road, commencing at John Myers' mill, in Georgetown, Cass county, running thence the nearest and best route to intersect the Iroquois State road near the line dividing White from Cass county.

SEC. 50. That Joseph C. Silvers and James Hudson, of the county of Allen; and Westley Park, of Dekalb county be, and they are hereby authorized and directed to view, mark, and locate a state road, to commence at the junction of the Mongoquonong and Little St. Joseph state road, thence on the nearest and best route via Vandoler's mill, to Auburn in Dekalb county.

SEC. 51. That Moses Pierson, George Taylor, and William Welsh of the county of Vigo be, and they are hereby appointed commissioners to re-locate a part of the road (being about three and a half miles) leading from Bloomfield to Terre Haute, commencing at Samuel Stants, and following the old road, or as near as may be expedient by the way of Centreville to George Taylor's lane.

SEC. 52. Whereas the legislature in 1836-7, appointed John Lanning, Esq., to view and mark out a road from Rawley's mills on Eel river, in Clay county, to the line dividing Vigo and Sullivan counties, to intersect a road from Carlisle in the direction to Bowlinggreen in Clay county, which being opened to the aforesaid line, said Lanning viewed and marked the aforesaid road, but neglected to make returns of the part running through Vigo county, a distance of about two miles, in consequence of which no road has been established, and of course no work done as yet, though the said road is a mail route; therefore,

*Be it enacted by the General Assembly of the State of Indiana,* That Moses Pierson, George Taylor, and William Welsh of Vigo county be, and they hereby are appointed commissioners to establish that part of the road from Rawley's mills on Eel river, in Clay county, to the line dividing Vigo and Sullivan counties, to intersect a road from Carlisle in the direction of Bowlinggreen, which passes through the county of Vigo, according to the review made by Valentine Serville, or with such alterations as they may consider necessary therein.

All acts and parts of acts coming within the purview of this act be, add the same is hereby repealed.

SEC. 53. That the county commissioners' court for Clark county, is hereby vested with power to make such alterations or changes in the state road leading from Charlestown to Salem via Rose's mill, as may in their opinion be most conducive to the public interest, or to locate the same on the county road running in the same direction. And should the county road be selected as the location of said road, it is hereby declared a state road.

SEC. 54. That Thomas Wheat of the county of Jay, be, and he is appointed commissioner to view, mark, and locate a state road on or near the countey line dividing the counties of Jay and Adams to intersect the Huntington and Recovery state road where the said line crosses said state road; and so much of the seventy-sixth section of an act to establish certain state roads therein named, approved February the eighteenth, 1839, as comes within the purview of this act be, and the same is hereby repealed.

SEC. 55. That Robert Leavell and Larkin Thornburgh of Wayne county, and Thomas Malsbey of the county of Randolph be, and they are hereby appointed commissioners to view, mark, and locate a state road from Hagerstown in the county of Wayne, thence to Henry Thornburgh's in said county of Wayne, thence the nearest and best route to Camden in Jay county.

SEC. 56. That the location of the state road leading from Danville to Bellville, Hendricks county be, and the same is hereby changed as follows, to wit: beginning on the line where the said road crosses the line dividing out-lots numbers thirty-four and thirty-five, and running them across the south-west corner of out-lot number thirty-five to North street, opposite the northern termination of Washington street, thence east on north street to Short street, thence south on Short street to Market street; thence east on Market street to the western boundary of the original platt of the town of Bellville, that the former location of the said road from the above mentioned place of beginning be, and the same is hereby vacated.

SEC. 59. Whereas, it is represented that the commissioners appointed by the 36th section of an act entitled an act relating to state roads, approved February 6th, 1837, and by the 2d section of an act entitled an act to revive and continue certain state roads in White, Pulaski, Marshall, and Carroll counties, and for other purposes, approved, February 17th, 1838, and by the thirty-third section of an act entitled an act to establish certain state roads therein named, and for other purposes, approved February 18th, 1839, all of which sections refer to a state road to be run between Monticello in White county, to Lockport in Carroll county, whereas they have failed to run and locate said road; therefore,

*Be it enacted by the General Assembly of the State of Indiana,* That the several sections of the acts above enumerated be, and the same are hereby repealed.

SEC. 58. That Stephen Graves, of the county of Montgomery, and

Thomas Brown, of the county of Boone be, and they are hereby appointed commissioners to view, mark, and locate a state road from Thorntown in the county of Boone, to where the Crawfordsville and Frankfort state road crosses Hazel creek in the county of Montgomery, said road to be located on the nearest and best ground between the points aforesaid, having due regard to private property and fitness of ground.

SEC. 59. That Daniel Dale of White county, and David Lucus, of the county of Carroll be, and they are hereby appointed commissioners to view, mark, and locate a state road between Monticello in White county, and Lockport in Carroll county and the said commissioners shall in all respects be governed by the general laws now in force on the subject of State roads.

SEC. 60. That the proceedings of the board of commissioners of Warren county, and of Jesse Tomlinson as commissioner appointed by said board, in relation to the road provided in the thirty-second section of the act entitled an act to establish certain state roads therein named and for other purposes, approved February 18th, 1839, be, and the same are hereby legalized to be in full force and virtue as if said Jesse Tomlinson had been constituted commissioner by said act, and the said road so located by said commissioner, is hereby declared a state road; so much of the thirty-second section of said act as comes within the purview of this act, be, and the same is hereby repealed.

SEC. 61. That Isaac Hardin of the county of Marion, be, and he is hereby appointed a commissioner to view, mark and re-locate so much of the state road, which commences on the national road at the county line dividing the counties of Marion and Hendricks and runs north on or near said county line, to the state road leading from Indianapolis to Lafayette as lies between a point eighty rods south of the southeast corner of section five, in town fifteen north, range two east and the national road. The commissioners above named, shall on the first Monday of March next, or on some subsequent day, first being qualified according to law proceed to re-locate so much of said road as lies between the points above named, commencing at the said point eighty rods south of the southeast corner of section five, town fifteen, range two east; thence on the nearest and best ground to the centre of section nine, in the town and range aforesaid, to a county road; thence on said road to the national road in the town of Bridgeport in Marion county. Said commissioners, clerk of the county and board doing county business shall severally be governed by the act upon the subject of the location of state roads, except as otherwise provided for by this act, and when said location shall be made, the old state road between the points aforesaid is hereby vacated. Said commissioner shall be allowed one dollar per day for the time necessarily employed, to be paid out of the county treasury of Marion county on the order of the board doing county business, and in case of vacancy by death or otherwise in said commissioner, the said board shall fill such vacancy.

SEC. 62. That N. H. Biddlecome of the county of Warren, be, and he is hereby appointed a commissioner to view, mark and locate so much of the state road leading from Independence to Lafayette as lies between Zechariah Sicotts in Warren county and the mouth of Indian creek in Tippecanoe county. Said commissioners after having taken the necessary oath, shall proceed to view, mark and re-locate said road as follows: Commencing at Zachariah Cicotts; thence the nearest and best way to the town of Milford in Warren county; thence on the county road leading from Milford to where said road intersects the state road leading from Lafayette to Chicago near the mouth of said Indian creek. The sum of fifty dollars of the first three per cent. fund that may be received by said county of Warren, and fifty dollars of said fund heretofore appropriated for the purpose of opening and improving said road, to be expended within the counties from which they are taken respectively. So much of the act establishing said road as comes within the purview of this act, be, and the same is hereby repealed.

SEC. 63. That James Wilson, Arthur Humphrey, and Charles Campbell of Switzerland county are hereby appointed commissioners to view, mark and locate a state road, commencing on the bank of the Ohio river on the dividing line between the farms of Hoosier J. Durbin and Thomas W. Chambers; thence the best way to intersect the Patriot and Allensville state road at the farm of Supply Walker. Said commissioners shall meet on the second Monday of March next or some subsequent day, at such place as a majority of them may agree upon, and having been qualified according to law shall proceed to mark and locate said road, and within thirty days thereafter file a report thereof in said county to be recorded. Said commissioners shall have power to employ the necessary surveyor and chain carriers, who shall be paid a reasonable compensation out of the county treasury on the order of the board doing county business. The said board shall order said road to be opened any width not exceeding fifty feet.

SEC. 64. That John Snoeberger of Carroll county and Thomas Kirkwood of Grant county, be, and they are hereby appointed commissioners to view, mark and locate a state road from Camden in Carroll county to Marion in Grant county, on the nearest and best route, having particular regard, however, to the accommodation of the neighborhoods through which it may pass, and as much care for the property of individuals, as is consistent with the public interest. The boards doing business in the counties of Carroll and Grant, shall make such allowance to said commissioners as they may think reasonable in proportion to the distance said road shall pass through their respective counties, and each of said boards shall also make a like allowance for half the distance of said road through the Great Miami Reservation.

SEC. 65. That the act entitled an act vacating the Albany and Burlington state road in Delaware county, be, and the same is hereby repealed, and that the act repealed by that act, be, and the same is hereby revived.

**SEC. 66.** That John M. Wilson of Grant county, be, and he is hereby appointed a commissioner to view, mark and locate a state road, commencing where the Logansport and Richmond state road crosses Barren creek in Grant county, thence on the east side of said creek a short distance to the open line in section nineteen, thence running on the open line in said section to section thirty, thence west on said line to the range line, or as near it as may be thought practicable to West Union in Henry county.

**SEC. 67.** That the county road running from Sample's mill via Huntsville in Randolph county, to Economy in Wayne county, be, and the same is hereby declared to be a state road, and Daniel Worth and Nathan G. Lamb are hereby appointed commissioners to make all necessary changes in said road, for the purpose of straightening the same so as to promote the public good.

**SEC. 68.** That John Marine, James Pursley and John Garringer be, and they are hereby appointed commissioners to view, mark and locate a state road, to commence at Sample's mill in Randolph county; thence north to intersect the Cambridge city and Fort Wayne state road at the most suitable point for the public good; and so much of the 85th section of an act to establish state roads, approved February the 17th, 1838, as comes within the purview of this act, be, and the same is hereby repealed.

**SEC. 69.** That George Cline and Warren Pierce of Porter county, be, and they are hereby appointed commissioners to view, mark and locate a state road commencing at the ferry known as Sherwood's ferry on the Kankakee river; thence to Henry Rinker's bridge on Morgan's prairie; thence the nearest and best route to Michigan city by way of Josiah Reed's mill.

**SEC. 70.** That so much of the state road located by John Saylor from Valparaiso by Flint Lake to Michigan city as lies between Flint Lake and Michigan city, be, and the same is hereby vacated.

**SEC. 71.** That Eleazer Snodgrass of the county of Hancock, be, and he is hereby appointed a commissioner to view, mark and locate a state road, commencing on the line dividing sections two and three, in township fifteen, north of range six east, at or near Philadelphia in said county; thence on the nearest and best ground that can be had to a suitable point on the southern boundary of said county, with a view of its being continued to Doblestown in Shelby county.

**SEC. 72.** That Henry Thomas of Cass county and Abraham Sneathen of Pulaski county, be, and they are hereby appointed commissioners to view, mark and locate a state road, commencing at Logansport in Cass county; running thence on the Logansport and Chicago state road at least three miles, and as much further as said commissioners may deem best; thence the nearest and best route to the southwest quarter of section thirty-three, in township twenty-eight, north of range one west; thence crossing the Tippecanoe river at Greenup Scots to White Post in Jasper county; thence to intersect the state road leading from Lafayette to Laporte, and the one leading from Winnemac to the Iroquois river.

**SEC. 73.** That the sum of four hundred dollars be, and the same is hereby appropriated out of the three per cent. fund belonging to the county of Warren, and also so much of the amount of road tax arising by the taxation of non-resident lands, now in the hands of the treasurer of said county of Warren, as may be due to Pine township, for the purpose of building a bridge across Big Pine creek, at the town of Rainesville in said county, under the superintendence of Syria Aldritch, who is hereby appointed a commissioner to superintend the construction of the same; the said four hundred dollars to be paid out of the first money that may be due said county after paying over all the sums that have heretofore been appropriated.

**SEC. 74.** That Moses Oaley and James M. Gasten of Green county, and John Given of the county of Monroe, be, and they are hereby appointed commissioners to view, mark, and locate a state road from Ross's iron works in Monroe county, via Oaley's mill in Green county, and thence to Point Commerce. It is hereby made the duty of said commissioners, on or before the first day of August, to proceed to view, mark and locate said road, and they are hereby required to discharge their several duties in accordance with the rules laid down in an act relating to public roads and highways in this state.

**SEC. 75.** That Patrick Regan of Vanderburg county, John Lynn of Warrick county and Thomas C. Stewart of Pike county, be, and they are hereby appointed commissioners to view, mark, and locate a state road from Evansville in the county of Vanderburgh, via Lynnsville in Warrick county to Petersburgh in Pike county.

**SEC. 76.** The commissioners, or any two of them, shall, on the first day of June next or some subsequent day to be agreed upon by a majority of said commissioners, and, after taking an oath faithfully and impartially to discharge the duties assigned by this act, shall proceed to view, mark, and locate the aforesaid road, and shall within thirty days after said location of the same, file a report of their proceedings in the clerk's office of those counties in which said road is located, which report shall be recorded in the record books of the board doing county business in said counties.

**SEC. 77.** It shall be the duty of the board doing county business in said counties, at their first term after the filing of said report, to cause said road to be opened in the same way that now is or may be hereafter provided by law for opening and keeping in repair public roads and highways. It is hereby made the duty of the board doing county business in the counties through which said road passes to allow commissioners one dollar and fifty cents each per day for their services, which sum shall be paid out of the county treasuries of said counties in proportion to the length of said road in each county.

**SEC. 78.** That so much of an act approved 17th February 1838, as comes within the purview of the three last sections of this act be and the same is hereby repealed.

**SEC. 79.** That the commissioners named in this act, except where otherwise provided, shall meet at the place of holding courts in each county, or at some other place more convenient, to be agreed on by the

proper commissioners, on the first Monday in April next, or within sixty days thereafter, and take an oath or affirmation faithfully to discharge the duties required of them by the provisions of this act, before some person legally authorized to administer oaths. Said commissioners shall employ surveyors and chain carriers for the purpose of locating said roads, who shall receive for their services such compensation as the boards doing county business shall deem just and reasonable, and each commissioner hereby appointed shall receive one dollar and fifty cents per day for each day that he may be necessarily employed in the location of said roads, except in cases otherwise provided for by this act, which shall, together with the pay of the persons employed by them, be paid out of any money in the respective county treasuries, not otherwise appropriated.

**SEC. 80.** Should either of the commissioners in this act named die, remove, or refuse or neglect to qualify and discharge the duties enjoined, on being informed thereof it shall be the duty of the board doing county business in the county where such commissioner resided to fill such vacancy, and the commissioner so appointed shall be governed in all respects in the same manner and proceed to discharge the same duties as if he had been appointed by this legislature.

**SEC. 81.** And when the commissioner or commissioners shall have discharged the duties required by this act, they shall report the same to the board doing county business in their respective county or counties, who shall order the same to be recorded in the books kept for that purpose, or for recording their proceedings; and after recording the same as a state road, shall cause the same to be opened and kept in repair in the same manner as other roads in such county.

**SEC. 82.** That all state roads hereby authorized to be located shall not exceed sixty feet, nor be less than forty feet in width; and when the commissioners shall have made their return to the proper board doing county business in the respective counties, and such recorded width shall remain unchanged.

**SEC. 83.** That when any state road shall run through more than one county, each county shall pay or defray the expenses of locating such road, in proportion to the length of said road in each county through which the same may pass.

**SEC. 84.** This act to take effect and be in force from and after its passage.

## CHAPTER LII.

An act relating to State Roads.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That Silden C. Fisk of Orange county, Thomas Dorset and David Boyder of Martin county, be, and they are hereby appointed commissioners to view, mark and locate a state road from Harrisonville in Martin county, by way of Boyder's ferry on White river to Paoli in Orange county.

**SEC. 2.** That Earl Douglass, George W. Watson, and John P. Davis of the county of Martin, be, and they are hereby appointed commissioners to view, mark and locate a state road from Harrisonville in Martin county, on the nearest and best ground to the town of Natchez in said county, and thence to French Lick in Orange county.

**SEC. 3.** That Thomas Bedstain and Samuel Webb of the county Orange and John P. Davis of the county of Martin, be, and they are hereby appointed commissioners to view, mark and locate a state road from the town of Orleans in Orange county, on the nearest and best ground.

**SEC. 4.** That John Smiley, Esq. of Johnson county, be, and he is hereby appointed a commissioner to view, mark and locate a state road, to commence on the Madison state road about one half mile north of Edinburgh in said county, where the section line dividing sections thirty-three and thirty-four, in township eleven, north of range five crosses said Madison state road, and running north with said section line, and along the present county road to Jonathan Arnold's mill; thence north with the same section line until the same intersects the state road leading from Greenfield in Hancock county to Franklin in Johnson county.

**SEC. 5.** That David Klinger and Samuel Burson of Pulaski county, and Itheram Taylor of Laporte, be, and the same are hereby appointed commissioners to view, mark and locate a state road from the town of Laporte in Laporte county, to Winnemac in Pulaski county.

**SEC. 6.** That Amos Davis and Isaac Sparks of Lagrange county and Solomon L. Hixon of Elkhart county, be, and they are hereby appointed commissioners to view, mark and locate a state road, commencing at or near the point where the canal line passes out of Noble into Elkhart county; thence north with the line between the counties of Elkhart and Lagrange, to the quarter stake of section thirty, township thirty-seven, north of range 8 east; thence in a northeasterly direction with the county road to Amos Davis' saw mill on the Little Elkhart; thence north to the Lima and Goshen state road; thence along said state road to the high ground, and leaving Bass lake on the west side thereof, to continue in a northerly direction to intersect the state road

leading from Perry's prairie, in Noble county to the state line south of White in Michigan.

SEC. 7. That so much of the Plymouth and Huntington state road as lies between the town of Warsaw, Kosciusko county, and section eight in township thirty-three, north of range five east, be, and the same is hereby vacated.

SEC. 8. The Fort Wayne state road from Walnut creek bridge in section seven, township thirty-two, north of range six east, shall be extended from said Walnut creek bridge as above mentioned so as to cross the Tippecanoe at Peter Warner's mills; thence on the best ground to intersect the road leading from Plymouth to Leesburgh in section seven, township thirty-three, north of range five east; and for the purpose of carrying into effect this section of this act Newton Nye is hereby appointed a commissioner to do the same according to law.

SEC. 9. That Isaac Eaton of St. Joseph county, be, and he is hereby appointed a commissioner to view, mark and locate a state road commencing near the bridge on the west side of the Big Kankakee river on the Yellow river road in township thirty-six, north of range number one west, to section number four in said township; from thence to the Michigan road at or near New Carlisle; said road runs through St. Joseph and Laporte counties.

SEC. 10. That George R. \_\_\_\_\_ of the county of Kosciusko, be, and he is hereby appointed a commissioner to view, mark and locate a state road leading from Whitley post office in Whitley county, on the nearest and best ground to Kile's post office in Kosciusko county; from thence on the nearest and best route, to intersect the Fort Wayne and Warsaw state road a short distance from the thirty-seven mile tree, and said state road

SEC. 11. That Samuel Gaffrey and William Lovy, be, and they are hereby appointed commissioners to view, mark and locate a state road in Allen and Whitley counties, to connect the Fort Wayne and Goshen state road with the Huntington and Goshen state road in the following manner, to wit: Said road to commence in Allen county at some suitable point in township number thirty-two, north of range eleven east; thence running westerly to Eel river in Whitley county, crossing said river at or near Pierce's saw mill; thence running westerly, keeping the nearest and best course to the county seat of said Whitley county; thence continue westerly by the nearest and best route to the Huntington state road.

SEC. 12. That Samuel Witter of the county of St. Joseph, be, and he is hereby appointed a commissioner to view, mark and re-locate so much of the state road leading from South Bend northwest as lies between Jacob Mossell's or near there and the state line dividing Indiana and Michigan; said commissioner shall re-locate said road as that the same may be at least one half nearer than it now is to the house of Thomas D. Baird; said road shall be re-located on the ridge of ground between where it now runs and said Baird's house; thence north on the nearest and best ground so as to strike the road from Michigan at or near the corner of the fence of the improvement of Alex-

ander Blake; said commissioner shall attend to these duties at as early a day as convenient after the taking effect of this act.

SEC. 13. That Hamilton Sapham be, and he is hereby appointed a commissioner to view, mark and locate a state road from the town of Lebanon in Boone county to Thorntown.

SEC. 14. That Benjamin Denton of the county of Jasper and James Emmerson of the county of Tippecanoe, be, and they are hereby appointed commissioners to view, mark and locate a state road commencing at Lafayette in the county of Tippecanoe, thence to John Wallace's on the bank of Pine Lick in Jasper county; thence to a convenient ford crossing on the Iroquois river in township twenty-eight, north of range 8 west, section 14; from thence to the state line, west from Beaver Lake in Jasper county.

SEC. 5. That George Earle of Lake county be, and is hereby appointed a commissioner to view, mark and locate a state road as follows: Beginning at the house of Jesse Morgan in Porter county, (being a point of a state road located from Laporte to said Morgan's;) thence by the nearest and best way to the town of Liverpool in Lake county; thence the nearest and best way to the state line, in the most direct way towards the town of Chicago.

SEC. 16. That Samuel Rank and William Hester of the counties of Wabash and Miami, be, and they are hereby appointed commissioners to review, mark and re-locate that part of the Wabash and Chippewa state road leading from Wabash town in the county of Wabash aforesaid, to Chippewa in Fulton county, which lies within the following limits, to wit: Commencing at the point where said road as now located crosses the section line between sections twelve and thirteen, in township twenty-eight north, of range five east; thence to continue along said section line west about three-fourths of a mile; thence nearly northwest to the section line between sections eleven and twelve, so as to run on the open line west through section eleven to the county line between Miami and Wabash counties; thence north with and along said county line to the point where said road crosses said county line according to its present location.

SEC. 17. That Josiah Kiser, of Vermillion county be, and he is hereby appointed a commissioner to view, mark, and locate a state road, commencing at Samuel Daugherty's on the county road, leading from Eugene to the Slip Bank, thence in the most direct route to connect and intersect the state road from Parish's Grove to the Slip Bank, at a point, one hundred yards from the termination of said state road.

SEC. 18. That the hundredth and fifty-seventh section of an act entitled an act to establish certain state roads therein named, and for other purposes, approved February 17th, 1838, be, and the same is hereby repealed.

SEC. 19. That the cart-way or road running through the land and farm of Thomas D. Baird, where said road strikes said Baird's line on the east, until it strikes the county road running through the lane north and south, west of the farm of Charles Baird, Sen., be, and the same is hereby vacated. Said road lying in the county of St. Joseph

and state of Indian, on sections sixteen, &c., running through the centre of said Thomas D. Baird's farm, &c., and said road or cartway is hereby as effectually vacated and done away, as though the same had never existed—any law or order of the board of county commissioners to the contrary notwithstanding.

**SEC. 20.** That James Martin, of the county of Hendricks be, and he hereby is appointed a commissioner to locate a part of the Indianapolis and Crawfordsville state road, commencing at the line between the counties of Boone and Hendricks, and from thence on the nearest and best ground to intersect the old road in the direction of Indianapolis; being a continuation of the relocation heretofore made by John Nelson and others, commissioners appointed by the board doing county business for the county of Boone.

**SEC. 21.** Thomas Allen and John Moore, of Owen county, and Mathew Phipps of Clay county, are appointed commissioners to view, mark, and locate a state road from Gosport, in Owen county, to Bowlinggreen, in Clay county, on the nearest and best ground.

**SEC. 22.** That the commissioners above named shall meet at the place of holding courts in each county, or at some other place more convenient to be agreed upon by the proper commissioners on the first Monday in April next, or as soon thereafter as they may agree upon, and take an oath, faithfully to discharge the duties required of them by the provisions of this act, before some person legally authorized to administer the same: The commissioners, if necessary, shall employ surveyors and chain carriers, for the purpose of locating said roads, who shall receive for their services such compensation as the boards doing county business, shall deem just and reasonable; each commissioner or commissioners hereby appointed, shall receive one dollar and fifty cents per day for each day that he shall be necessarily employed in the location of said road; which shall, together with the pay of the persons employed by them, be paid out of any money in the respective county treasury not otherwise appropriated.

**SEC. 23.** And when the commissioner or commissioners shall have discharged the duties required by this act, they shall report the same to the board doing county business in their respective county or counties; who shall order the same to be recorded in the books kept for that purpose, or for recording their proceedings; and after recording the same as a state road, shall cause the same to be opened and kept in repair as other roads in such county.

**SEC. 24.** That all state roads herein named, shall not exceed sixty feet, nor less than forty in width; and when the commissioner or commissioners shall have made their return to the proper board doing county business in the respective counties, and such road received such recorded width, shall remain unchanged.

**SEC. 25.** That when any state road shall run through one or more counties, each county shall pay or defray the expenses of locating such road, in proportion to the length of said road, in the county or counties, through which the same shall pass.

This act to take effect and be in force from and after its passage.

### CHAPTER LIII.

An act to amend an act entitled an act to incorporate the Richmond and Boston Turnpike Company, approved February 15th, 1839.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the seventh section of the act to which this is an amendment, be so amended as to allow the directors to organize and commence operations on said work at any time after the sum of thirty thousand dollars of the capital stock is subscribed.

This act to take effect and be in force from and after its passage.

### CHAPTER LIV.

An act to incorporate the New Washington Seminary.

[APPROVED JANUARY 22, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That Martin Adams, Robert Tilford, Francis Rotts, John Grissmore, John McHenry, John M. Dickey and Thomas J. Henley, be, and they are hereby constituted and appointed a body corporate and politic to be known by the name and style of "The Trustees of the New Washington Seminary," and by that name shall have perpetual succession, with the permission to adopt a common seal, with power to alter or change the same at pleasure, and as a body corporate shall be authorized to carry the objects and designs of said institution into complete effect, to increase the number of trustees whenever it shall be deemed necessary, to employ and appoint professors and tutors in said seminary, to put the same under the direction and management of any christian denomination or body they may select, under such regulations and restrictions as shall be mutually agreed upon by the parties, to adopt a constitution, by-laws and regulations for the government and well being of said seminary, not incompatible with the constitution and laws of the United States and of this state, and by the name and style of the trustees of the Washington Seminary, may sue and be sued, plead and be impleaded, answer and be answered unto, in any court of law or equity.

**SEC. 2.** In case of death, removal or other disqualification of any of the trustees of said seminary, the remaining trustees shall have power to fill such vacancy, and the individual or individuals so appointed are hereby vested with the same power and authority as if specially named in this act, and at any meeting of the board of trustees, a majority shall constitute a quorum to do business. The said trustees shall have power in their corporate capacity, to purchase or receive by donation, bequest or devise, any lands, tenements, hereditaments, moneys, rents, goods or chattels, which may be conveyed, demised or bequeathed to them for the use and benefit of said institution, and shall be required faithfully to apply the same.

**SEC. 3.** The trustees first named in this act, shall give notice of the time and place of the first meeting of the board of trustees, at which time they shall elect a president, treasurer and clerk, the first of whom shall be one of their own number, and shall thereafter meet on their adjournments, or may be convened by the president or any two members of the board. They shall have power to erect all necessary buildings for the use and accommodation of said seminary, and to select a suitable site for the same, either within the limits or in the vicinity of the village of New Washington, in conformity with the citizens of said town: *Provided*, That the legislature shall have power hereafter to annul or amend this charter of incorporation.

## CHAPTER LV.

An act to incorporate the Clonian Band of Rockville.

[APPROVED FEBRUARY 22, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That R. Dogget, J. P. Noel, J. White, D. Danoch, J. Brown, O. Patterson, W. H. McMurtry, E. B. Freeman, D. F. Marshall, J. B. Cornelius, S. Noel, J. C. Allen, H. M. McNutt, B. Asbury, E. Dogget and their associates and successors be, and they are hereby constituted and declared to be a body politic and corporate by the name and style of the Clonian Band of Rockville, with perpetual succession and with full power to contract and be contracted with, to sue and be sued, plead and be impleaded, answered and be answered unto in law and equity, and in all courts of legal proceedings whatever, to make, have, and use a common seal and the same to alter or renew at pleasure.

**SEC. 2.** Said Clonian Band is hereby authorized to adopt a constitution, to make, establish, and enforce such by-laws, rules and ordinances under said constitution as they may deem proper, not inconsis-

tent with the constitution and laws of the United States and of this state.

**SEC. 3.** Said band may make and appoint all officers necessary for the management and direction of the association, may regulate the manner of appointing or electing such officers, together with their time of service, and may make such rules and regulations for the re-ception and expulsion of members as they may think necessary.

**SEC. 4.** Said corporation may receive donations in money, property, musical instruments or books, and may hold and devote the same to the purposes of the band. They may make a capital stock not exceeding two thousand dollars in shares of five dollars each, to be taken and held by the members of the association to be appropriated to the procuring of musical instruments, books and instruction, or any kind of property necessary for their convenience in accomplishing the objects of the association, and may convey, alien, or sell any or all such property and divide the proceeds among themselves, according to the proportion of their stock.

**SEC. 5.** The legislature reserves to itself the right to amend, alter or annul this act of incorporation at any time.

This act to be in force from and after its passage.

## CHAPTER LVI.

An act for the relief of Maria T. Rush of Dearborn county.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That after the personal estate of Leon Bowman, deceased, shall have been settled, and the amount thereof ascertained, that portion of the same that shall or may be due and payable to the state of Indiana for want of legal heirs of said Bowman, shall be paid over to the circuit court of Dearborn county, and thereupon the court shall appoint a trustee to take possession of said funds and loan the same out, at not less than eight, and not exceeding ten per cent. per annum, upon a mortgage upon good freehold security within the limits of said county; and the said trustee shall annually collect the interest thereon and pay it over to the said Maria T. Rush, retaining such a part thereof as said court may allow him for his services as trustee as aforesaid.

**SEC. 2.** The said court may at their discretion, remove said trustee, or make him render an account or appoint another in his stead; and the said trustee, after the death of said Maria, shall retain in his possession the said fund, subject to the direction of the legislature of this state.

**SEC. 3.** That the said Maria T. Rush shall likewise have, use, occupy, and enjoy, for her own use and benefit, for and during her natural life, unless heirs as aforesaid shall sooner appear to claim the same, all the real estate of which the said Leon Bowman died seized and possessed, and which shall have or may become the property of the state for want of heirs of said Leon Bowman, the same being understood to be the undivided half of parts of two in-lots in the town of Rising Sun, numbered eleven and twelve, the other half thereof now belonging to said Maria: *Provided*, That the relatives of said Leon Bowman shall have the same rights to claim as legal heirs, although foreigners, as they would have were they citizens of the United States. *Provided, further*, That nothing herein contained shall prevent the legislature at any time hereafter, to require the said personal and real estate from the said Maria, for the benefit of any heir or relative of said Leon Bowman, hereafter appearing to claim the same.

This act shall be in force from and after its passage.

## CHAPTER LVII.

### An act relative to the Clay County Seminary.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That Matthew Phipps, Samuel Miles, James H. Epperson, John Chance, and Josiah Burton and their successors in office, are hereby constituted a body politic and corporate, by the name and style of the Board of Trustees of the Clay County Seminary; and by that name have perpetual succession, and have full power to sue and be sued, to plead and be impleaded, to answer and be answered unto, to contract and be contracted with, to receive by subscription, gift, donation, grant, deed, or bequest, any real or personal estate for the sole use and benefit of the said seminary, to elect all officers, instructors, or agents necessary for said institution, to make and ordain such regulations and by-laws for the government of said institution as they may deem necessary, not contrary to the constitution and laws of the United States or of the state of Indiana. They shall also fix the salaries of instructors, and all other officers or agents necessary to carry out the provisions of this act.

**SEC. 2.** Said trustees shall hold their office until the first Monday in August 1840, and until their successors are chosen and qualified, and that the qualified voters of Clay county are hereby authorized at their annual election on the first Monday in August, 1840, and annual-

ly thereafter, to elect five trustees who shall hold their office for one year and until their successors are chosen and qualified, and that any qualified voter be eligible to the said office of trustee.

**SEC. 3.** That if the said qualified voters of said county should at any time fail to elect any or all of said trustees as herein provided, or any vacancy occur in the said board of trustees as is herein provided, then and in that case it is made the duty of the board doing county business for said county to appoint some suitable person or persons to fill each and every such vacancy at their next term.

**SEC. 4.** That the said trustees, or a majority of them, shall meet in the town of Bowlinggreen on the second Saturday in March 1840, or as soon thereafter as may be convenient for them, after being duly qualified, as the fifth section of an act relative to Clay County Seminary, approved February 5th, 1839, now specifies, shall proceed to elect from their body a president and secretary to serve one year, or until their successors are duly elected and also to elect a treasurer who shall not be a member of the board, to serve during the pleasure of said board.

**SEC. 5.** The treasurer so elected, before entering upon a discharge of the duties of his office, shall take an oath or affirmation and give bond with approved security, payable to said board or their successors in office, in a penal sum of double the amount of funds that will probably be in his hands at any one time during his continuance in office, for the faithful performance of the duties of said office, the bond to be approved by the board of trustees.

**SEC. 6.** The trustees shall procure a suitable book or books in which the secretary shall keep a record of all their proceedings of each day of the session of said board; which shall be signed by the president and countersigned by the secretary; and should the president or secretary be absent at any meeting of the board the members present may elect one pro tem.

**SEC. 7.** All moneys paid out by the treasurer shall be on the order of the board of trustees and attested by the secretary.

**SEC. 8.** It shall be the duty of the board of trustees as soon after their organization as practicable to proceed into a thorough examination of the state of the seminary funds of said county, and in furtherance of this object they are hereby authorized and empowered to examine in person or by their authorized agent, all the records of said county and of the circuit court of said county; should the clerk of said county or any other officer refuse to let or in any way try to prevent such examination he shall for every such offence subject himself to a fine of not less than fifty nor more than one hundred dollars, to be recovered before any court of competent jurisdiction in said county, at the suit of the said trustees for the use of said seminary, and they shall demand and receive from all officers or persons in whose hands there may or shall be any of the funds of said seminary; all such sums, which, when received shall be paid over to the treasurer who shall receipt for the same, and should any person or officer in whose hands any of the funds of said seminary shall be found, refuse or neglect to pay

over to the said trustees or their said authorized agents such funds the said trustees shall immediately proceed to collect the same before any court of said county, having competent jurisdiction, and shall recover, without stay of execution, of such persons or their securities, the principal with six per cent. interest from the time the same should have been paid, with ten per cent. damages.

SEC. 9. The board of trustees shall make out and present to the board doing county business in said county, at their January term annually a detailed statement of the amount of funds and condition of said institution, which statement shall be filed in the clerk's office of said county board.

SEC. 10. Each township in said county shall have a right to an equal number of scholars in said institution in proportion to the taxable polls in the same, but should any township neglect to send its said proportion, then and in that case, the deficiency may be made up by any of the other townships.

SEC. 11. All officers in whose hands or possession there may now be, or hereafter come any moneys set apart for seminary purposes are hereby required to pay over the same to said treasurer of the Clay county seminary within thirty days after the receipt thereof, taking such treasurer's receipt therefor, which receipt shall be filed by such officer with the clerk of said county of Clay, by him recorded in a book kept for that purpose by the board doing county business for said county.

SEC. 12. It shall be the duty of the clerk of Clay county and all justices of the peace in said county, to make a report in writing to the board doing county business for said county at their January term in each year; the said clerk setting forth clearly and succinctly the names of all persons against whom fines have been assessed in the circuit court, the preceding year, and the amount thereof, and each justice of the peace setting forth names of all persons against whom fines have been assessed by him the preceding year and the amount thereof, which report shall be entered of record by said clerk on the records of said board in a book to be kept by said board for that purpose.

SEC. 13. Should any officer in whose hands there now is or may hereafter be any moneys set apart for seminary purposes, neglect to pay over the same to the said treasurer according to the provision of the eleventh section of this act such treasurer shall without delay institute suit therefor by motion in any court of competent jurisdiction in said county of Clay, after giving such delinquent ten days' notice of such intended motion, and the court before whom the same may be tried shall in addition to the principal and legal interest which appears to be due, give judgment for ten per cent. damages thereon and cost of suit, and also six per cent. for the use of the attorney prosecuting the same if any be employed, upon which judgment there shall be no stay of execution: *Provided*, That if said delinquent shall pay over the principal and legal interest to the said treasurer, when so notified, no suit shall be commenced by said treasurer.

SEC. 14. The treasurer of said seminary shall submit his books and official transactions to the inspection of the board of trustees and the board doing county business whenever required by either.

SEC. 15. In all cases when a fine is assessed against any individual the proceeds of which go to said seminary fund, the receipt of said treasurer for same shall in all cases be a release of such liability.

SEC. 16. The said trustees shall be governed in all respects where this act shall be silent, by the provisions of an act entitled an act relating to county seminaries, approved February 17th, 1838, and an act relative to the Clay county seminary, approved February 5th, 1839.

SEC. 17. The legislature shall have the power of repealing, altering and amending this act at any time.

SEC. 18. All laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

This act to be in force from and after its passage.

## CHAPTER LVIII.

An act to authorize the re-location of a part of a certain state road in Carroll county therein named.

[APPROVED FEBRUARY 24, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Jeremiah Ballard be, and he hereby is appointed a commissioner to view, survey and re-locate the state road heretofore located from Delphi by the way of Paragon in Carroll county, to Monticello in White county, so as to avoid the pool of the Great Wabash dam number four, near Delphi, as follows, to wit: Commencing at the public square in Delphi; thence the nearest and best practicable route to the east end of Washington street in Pittsburgh; thence with said street to Armstrong street; thence with said street to Market space; thence to Nathaniel Hamiltons; thence with a state road to the south-east corner of the farm of John Anderson; thence north with said farm, to a state road located by Robert Newel, and with said road to Monticello.

SEC. 2. Said commissioner, or on his neglecting or refusing to serve, any other person appointed to discharge such duty, and the board of county commissioners of said county, are hereby authorized to fill any vacancy that may happen in the office of such commissioner, shall proceed after being duly qualified, on the first Monday of April next, or as soon thereafter as convenient, to view, mark and re-locate said road

on the route named in the foregoing section, or on such other route as may best subserve the public interest; and shall cause a copy of such survey and re-location to be filed in the clerk's office of said county within twenty days after completing the same.

SEC. 3. Such commissioner is hereby authorized to employ the necessary assistants, and the board of county commissioners are hereby authorized to make such allowance to said commissioner and assistants as they shall deem reasonable.

SEC. 4. The board of county commissioners of said county shall order said road when so re-located, to be opened any width not exceeding sixty feet, and to be kept in repair in the same manner and by the same means that county roads are.

This act to take effect and be in force from and after its passage.

## CHAPTER LIX.

An act to authorize the sale of certain public ground in the town of St. Omer in Decatur county, and for other purposes.

[APPROVED FEBRUARY 22, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the board doing county business in the county of Decatur to appoint a commissioner to sell and convey that part of the public square in the town of St. Omer in the county of Decatur as lies in front of lots number 14, number 75, number 76 and number 77.

SEC. 2. It shall be the duty of said commissioners to call upon two disinterested freeholders of said county, whose duty it shall be to appraise said ground at a fair cash value, said appraisers shall then forthwith certify their appraisement under their hands to said commissioner duly sworn to before some person or persons legally authorized to administer oaths, for which said commissioner shall allow them the sum of seventy-five cents each as a compensation for their services, to be paid out of the funds arising from the sale of said ground.

SEC. 3. After said commissioner shall have received a certified report from such appraisers, he shall give three weeks' public notice of the time and place of such sale, in the Greensburgh Repository, a newspaper published in the town of Greensburgh, and sell the same to the highest bidder.

SEC. 4. Said commissioner is hereby authorized, after the proceeds of said sale shall have come into his hands, to proceed to lay the same out in the most judicious manner, for the improvement of the

streets of the aforesaid town of St. Omer: *Provided*, That the person or persons owning the lot or lots, in front of which said ground by this act proposed to be sold, lies, shall have the refusal to purchase the same at their appraised value; and said commissioner is hereby authorized to make to the purchaser or purchasers a good and sufficient deed in fee simple for said lot or lots, after the purchase money shall have been fully paid and received by him.

SEC. 5. Said commissioner, appointed by the provisions of the first section of this act, shall be required before he enters upon the discharge of his duties aforesaid, to give a bond with good and sufficient security, payable to the state of Indiana, for the use of the county of Decatur, in a sum double the supposed value of said lots, and take an oath faithfully to discharge his duties; and the board doing county business is hereby authorized to require the said commissioner to settle annually with said board, giving a true and faithful account of the receipts and expenditures, from whom received and to whom paid.

SEC. 6. Said board doing county business are hereby authorized and required to allow said commissioner a reasonable compensation for the time he may be actually engaged, and for all contingent expenses, to be paid out of the proceeds arising from the sale of said ground.

SEC. 7. This act to take effect and be in force from and after its passage.

## CHAPTER LX.

An act to authorize Daniel J. Hancock and Isaac Hancock to build a toll bridge across South Hogan creek, in Dearborn county.

[APPROVED FEBRUARY 22, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Daniel J. Hancock and Isaac Hancock, their agents, heirs or assigns be, and they are hereby authorized on the following conditions, subject to the following restrictions hereinafter specified, to erect and build, at their own expense, a toll bridge across South Hogan creek, at or near the present bridge over said creek on the state road from Aurora to Wilmington, and on their own land.

SEC. 2. Said bridge shall be at least twenty feet wide with good and sufficient hand railing on each side, and in all other respects strong and convenient for the safe passage of all travelers and other persons, cattle of every kind, and carriages of every description.

**SEC. 3.** On the erection and completion of the bridge aforesaid, the owners, agents or assigns may ask, demand and receive such tolls as the board doing county business shall direct.

**SEC. 4.** It shall be the duty of the owners of said bridge, their agents, heirs, or assigns to keep up in some convenient place on said bridge, where the toll shall or may be received and collected, a list of the rate of toll allowed to be received, which list shall be printed in large English print, and for neglecting the same over ten days, shall forfeit and pay the sum of ten dollars to be recovered before any justice of the peace, for the use of the county seminary of Dearborn county.

**SEC. 5.** If any person or persons shall wilfully impair or injure said bridge, or cause the same to be injured by digging the earth on or in the banks of the creek in the vicinity of the bridge, or in any other way or manner whatever, he, she or they so offending, shall forfeit and pay not less than three nor more than three thousand dollars, on conviction thereof by indictment, and shall moreover be liable to the owner in treble the amount of damage sustained, with costs of suit, to be recovered in an action of trespass in any court of competent jurisdiction.

**SEC. 6.** If any person shall forcibly, fraudulently or otherwise pass the toll gate on said bridge, without having paid legal toll, he, she or they shall forfeit and pay to the owners of said bridge three times the amount of the legal toll, to be recovered by an action of debt before any justice of the peace in said county, that the gate or gates of said bridge shall be kept open between the hours of nine o'clock in the evening and six in the morning.

**SEC. 7.** If any toll gatherer shall unreasonably delay or hinder any passenger at the gate, or shall receive or demand more than the legal toll, the owner shall for every such offence forfeit not less than three nor more than fifty dollars, to be recovered with costs of suit, before any justice of the peace in said county, for the use of the person so delayed or defrauded.

**SEC. 8.** That the board of county commissioners of Dearborn county shall, upon the application of the said Daniel J. Hancock and Isaac Hancock, their agents or assigns, appoint three disinterested freeholders, whose duty it shall be to examine said bridge when the same shall have been completed as required in the second section of this act, and shall certify that the said bridge is in every respect completed agreeably to said second section, it shall then be lawful for said Daniel J. Hancock and Isaac Hancock, their agents, heirs and assigns, to ask, demand and receive toll in the way herein set forth, and to enjoy all the advantages, privileges and emoluments secured to them by this act as long as they shall keep the said bridge in repair.

**SEC. 9.** It shall be the duty of the owners, their heirs, or assigns, so long as they shall receive toll to keep said bridge in good repair, and in default thereof shall, on conviction thereof before any justice of peace by action of debt, pay any sum not exceeding twenty five dol-

lars at the discretion of the justice who tries the same, for the use of the county seminary of Dearborn.

**SEC. 10.** That no other person shall be authorized to establish any ferry or bridge over said creek, within the lines of the north east quarter of section thirty one, township five, range one west, in said county, after said bridge shall be completed for passengers for and during the time said bridge shall be kept in repair. Said bridge is to be commenced in one year from the passage of this act, and finished within three years, otherwise this act to be null and void.

**SEC. 11.** That the said owners shall always be bound to transfer the said bridge to the county of Dearborn, or the Aurora and Napoleon turnpike company at cost and eight per cent thereon, always giving to the county of Dearborn the preference, deducting waste, dilapidation, and should the county purchase said bridge the county commissioners shall have the right to collect a sufficient amount of toll to keep said bridge in repair, but if purchased by the said turnpike company, it shall be kept free from toll.

**SEC. 12.** This act to take effect and be in force from and after its passage, and to endure so long as said bridge shall be kept in repair and good condition. *Provided*, That after the lapse of fifteen years from and after the bridge shall be completed, the legislature reserves the right to alter, amend, and repeal this charter: *And provided further*, That this act shall not take effect until the board doing county business in the county of Dearborn, shall cause their written assent thereto to be entered in their order book in the clerk's office of said county of Dearborn.

## CHAPTER LXI.

An act to provide for the erection of two bridges in the county of Orange, and for other purposes.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That John Frazer, Edward Millis and James Henderson, be, and they are hereby appointed commissioners to superintend the construction of a bridge across Lost river, at or near the crossing between Paoli and Orleans in the said county of Orange.

**SEC. 2.** That the commissioners be, and they are hereby authorized and empowered to receive and expend in the completion of said bridge, all donations and contributions that may be made in aid of said work, and also to expend in the furtherance of the same, the sum of three hundred dollars, more or less, now in the hands of Ed-

ward Millis of said county, the same being an amount of unexpended three per cent. funds heretofore placed in said Millis's hands by an act of the legislature.

**SEC. 3.** *And be it further enacted,* That William Stewart, James Dillard, and John McDonald be, and they are hereby appointed commissioners to superintend the erection and construction of a bridge across the stream called Patoka, in the county of Orange, at or near the town [house] of Newton Stewart in said county.

**SEC. 4.** That the commissioners last aforesaid be, and they are hereby authorized to receive and expend all donations and contributions that may be made to construct said bridge; and also that they shall demand and receive from William McDonald the sum of two hundred dollars of the three per cent. fund, placed in his hands by an act of the legislature; which sum shall by the said commissioners be expended in the construction of said bridge.

**SEC. 5.** That it shall be the duty of William McDonald to pay to the commissioners mentioned in the third section of this act, the sum of two hundred dollars of the three per cent. funds, which remain in his hands unexpended.

**SEC. 6.** That all laws and parts of laws coming within the purview of this act, be and the same are hereby repealed.

**SEC. 7.** This act to take effect and be in force from and after its passage.

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## CHAPTER LXII.

An act to authorize the removal of the obstructions to the free passage of the water down Little Blue river in Rush and Shelby counties.

[APPROVED FEBRUARY 15, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That Little Blue river from its junction with Big Blue river to Ball's mills in Rush county be, and the same is hereby declared a public highway, for the purpose of enabling the inhabitants to remove all obstructions from said stream that may have a deleterious effect upon the health of the citizens living in its vicinity: *Provided,* That nothing in this act shall be so construed as to authorize the removal of any mill dam now built, or that may hereafter be built across said stream.

**SEC. 2.** It shall be the duty of the boards doing county business in the counties of Rush and Shelby, at their May session, or at any subsequent session, to lay off so much of said stream as lies within their respective counties, within the above prescribed limits, into districts extending one mile from said stream on each side, and to assign to

such districts certain bounds of proper size; and on petition by a majority of the freeholders of any district, to appoint one suitable person as supervisor of said district so laid off, to be denominated supervisors of Little Blue river, who shall serve for and during the term of one year from and after their appointment, whose duty it shall be to superintend all the labor appropriated to, and by this act directed to be laid out on said stream: *Provided, however,* That it shall be lawful for any township to elect the supervisors of said stream at the April elections, in the same manner that supervisors of roads and highways are elected. And any supervisor so elected shall have the same powers and be liable to the same penalties to which supervisors appointed this act are liable.

**SEC. 3.** That the freeholders liable to work on public roads and highways within said district, shall from and after the taking effect of this act, be required to perform two days labor in each and every year under the direction of the supervisor appointed or elected under the provisions of this act, in whose district they may respectively reside, upon said stream, for the purpose of removing all obstructions to the free passage of the water down said stream, except those named in the proviso to the first section of this act.

**SEC. 4.** That it shall be the duty of the every supervisor appointed or elected under the provisions of this act, after having taken an oath or affirmation faithfully to discharge the duties assigned them, to call on all persons living within the limits of their respective districts to perform the work required by this act; and if any person shall fail or refuse to perform such labor, he having received three days previous notice thereof from the proper supervisor in person, or by any person by whom he can prove the same, or by a written notice left at the usual place of residence of such person, shall forfeit and pay the sum of seventy-five cents for each day he may so neglect or refuse to labor, to be recovered before any justice of the peace of the proper township having jurisdiction thereof, in the same manner and subject to the same regulations as are now prescribed for the collection of fines for failing or refusing to work on public roads and highways; and when collected shall be appropriated by said supervisor to improving said stream.

**SEC. 5.** Any freeholder refusing to accept said appointment of supervisor, or to take the oath or affirmation required shall forfeit and pay the sum of three dollars, to be recovered by presentment or indictment: *Provided,* No person shall be compelled to accept said appointment oftener than once in five years.

**SEC. 6.** Every person who shall at the request of the supervisor furnish a pair of horses and oxen or driver and perform one day's work with them, shall, for such days work so performed, receive a credit for two days' work, and so on in proportion for similar services, with a greater or less force.

**SEC. 7.** Any supervisor failing to discharge any of the duties enjoined on him by virtue of this act, shall, for every such offence forfeit and pay any sum not exceeding twenty dollars, to be recovered by

presentment or indictment in any court having competent jurisdiction thereof.

SEC. 8. This act to take effect from and after its passage.

## CHAPTER LXIII.

An act declaring Main Flat Rock and Big Blue River public highways in the counties of Henry and Shelby.

[APPROVED, FEBRUARY 15, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of Main Flat Rock and Big Blue river as lies in the county of Henry and Shelby be, and the same are hereby declared public highways.

SEC. 2. It shall be the duty of the board doing county business in the county of Henry and Shelby, at their May session in each year to lay off so much of said streams as in their opinion the public good may require, into districts extending one mile from said streams on each side of the same, and to assign to such districts certain boundaries, and on the petition of a majority of the freeholders of said district to appoint one suitable person as supervisor of such district so laid off, to be denominated supervisor of such district as may be numbered by said board of county commissioners, who shall serve for and during the term of one year from and after such appointment, whose duty it shall be to superintend all the labor appropriated to, and by this act directed to be laid out on said streams: *Provided however,* That it shall be lawful for any township to elect the supervisors of said streams at the April election in the same manner that other township officers are elected; and any supervisor so elected shall have the same power and be liable to the same penalties to which supervisors appointed under the provisions of this act are liable.

SEC. 2. That the freeholders liable to work on public roads and highways within said districts shall, from and after the taking effect of this act, be required to perform two day's labor in each and every year, under the direction of the supervisors appointed or elected by virtue of this act, in whose districts they may respectively reside upon said streams for the purpose of clearing the drift out of said streams, and such other improvements on said streams as they may deem necessary.

SEC. 4. That it shall be the duty of every supervisor appointed or elected by this act to call on all persons living within the limits of their respective districts to perform the work required by this act; and if any person shall fail or refuse to perform such labor, he having re-

ceived three days' previous notice thereof from the supervisor, in writing or otherwise, shall be liable to forfeit and pay the sum of seventy-five cents for each day he may so neglect or refuse to labor, to be recovered before any justice of the peace having jurisdiction thereof, in the same manner and subject to the same regulations as are prescribed for the collection of fines for failing or refusing to work on roads and highways, and upon collection shall be appropriated by said supervisors to improving said streams, and no one shall be compelled to perform such labor unless he is a freeholder in such district.

SEC. 5. Any supervisor failing to discharge any of the duties enjoined on him by virtue of this act shall, for every such offence forfeit and pay any sum not exceeding fifty dollars, to be recovered by presentment or indictment in any court having competent jurisdiction thereof.

SEC. 6. That an act declaring Main Flat Rock a Public highway in Rush county, and for other purposes be, and the same is hereby revived, and shall be, and remain in full force.

SEC. 7. This act to be in force from and after its passage.

## CHAPTER LXIV.

An act to relocate a state road in the counties of Gibson and Pike.

[APPROVED FEBRUARY 24, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That John Hyneman and Richard M. Kirk of Gibson county, and Geo. Chambers of Pike county be, and they are hereby appointed commissioners to view, mark, and re-locate a state road, commencing on White river at the Widow Decker's ferry, to R. M. Kirk's mills on Patoka, thence the nearest and best way on a direction to Boonville; to some suitable point of intersection on the state road leading from Princeton to Boonville.

SEC. 2. The said commissioners shall meet at the Widow Decker's ferry on White river, on Thursday the 7th day of May next, or on some subsequent day, and after having taken an oath before some justice of the peace, faithfully and impartially to discharge the duties required of them by this act, shall proceed to view, mark, and re-locate the aforesaid road the nearest and best route to the points aforesaid, making such changes in the present location as they may consider necessary for the public good, having due regard to the rights of private property, so far as not materially to increase the distance of said road.

SEC. 3. That said commissioners shall, within twenty days after making such location, file in each of the clerk's offices in the counties

through which said road may pass, a report of their proceedings, which said report shall, within ten days thereafter, be recorded in the record books of the boards doing county business in said counties.

**SEC. 4.** That the boards doing county business in said counties shall, at their first meeting after the location of said road as herein contemplated, cause the same to be opened any width not exceeding forty feet, and to be made agreeably to and under the provisions of the laws now in force for opening and repairing public roads and highways in said counties.

**SEC. 5.** The commissioners aforesaid, shall be entitled to receive for their services, the sum of one dollar each per day, to be allowed by the boards doing county business in said counties in proportion to the distance of said road in each of said counties, to be paid out of the county treasuries of said counties.

This act to take effect and be in force from and after its passage.

## CHAPTER LXV.

An act to change the route of the New Albany and Princeton state road within the limits of Leavenworth, Crawford county, &c. &c.

[APPROVED, FEBRUARY 15, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That Franklin street in the town of Leavenworth, Crawford county, is hereby required to be extended south, to the low water mark on the margin of the Ohio river and the Princeton and Albany State Road, via Leavenworth, where it intersects said street coming from Princeton, shall run on said street as herein extended to the low water mark on said river; thence up the margin of the river, until it is extended opposite the street upon which Daniel Lyons and Horatio Sharp reside; thence up the bank into said street, via Sharps, until it again intersects the said Princeton and Albany state road; thence on the route as heretofore, to New Albany, and said Sharp is hereby appointed commissioner to have the requisitions of this section complied with; and shall have such compensation as the board doing county business in said county may allow him.

**SEC. 2.** This act to be in force from and after its publication.

## CHAPTER LXIX.

An act for the benefit of persons who are likely to suffer by the destruction of the records of Dubois county.

[APPROVED JANUARY 18, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That for the purpose of perpetuating testimony concerning or relating to any patents, deeds, bills of sale, wills, inventories, powers of attorneys, or other instrument of writing, which were destroyed by the burning of the clerk's and recorder's office of Dubois county, it shall be the duty of the president judge of the fourth judicial circuit of said state, in addition to the regular terms of the circuit court of said county, as now provided for by law, to hold a court for said county, commencing on the third Mondays of May and November in the year eighteen hundred and forty, for the purpose of receiving and admitting to record, all evidence offered by any person concerning or relating to any patents, deeds, bills of sale, powers of attorneys, wills, inventories or other instruments of writing, lost or destroyed as aforesaid; and the said judge shall hold his session two weeks at each of the terms aforesaid, if the business shall so long require it, and the said president judge may also, at the regular terms of said circuit court, receive and admit to record, all evidence which may be offered as aforesaid.

**SEC. 2.** It shall be the duty of the clerk of the circuit court of said county to keep a journal of the proceedings of said court, and enter upon record, in a book or books to be kept for that purpose, and to be furnished at the expense of said county, all evidence or testimony presented to said court concerning any patent, deed, bill of sale, will, power of attorney, inventory or other instrument of writing by any person who may wish to have any such testimony perpetuated: *Provided however,* That no testimony shall be received concerning or relating to any of the above named instruments of writing, until the persons offering such testimony, shall prove to the satisfaction of said court by his or her affidavit or the affidavit of some other person that such instrument of writing is lost or destroyed.

**SEC. 3.** The said court shall have the same powers to compel the attendance of witnesses and punish contempts, as the circuit court of this state, and the clerk and sheriff of said county shall be ex officio officers of said court, and shall receive for their services respectively, the same fees allowed by law for similar services in the circuit court, which fees shall be taxed and collected from the party requiring such services as other fees are now taxed and collected by law.

**SEC. 4.** If any person shall produce any patent, deed, bill of sale, power of attorney, inventory or other instrument of writing, duly executed with the endorsement of the present or any former clerk or recorder of the county of Dubois, that the same had been duly recorded

in the records of said county, such patent, deed, bill of sale, inventory, power of attorney or other instrument of writing, with all the official endorsements thereon, shall be entered at full length in the book kept for that purpose, and any paper or writing which shall be presented to said court, and proved to be a correct copy of any patent, deed, bill of sale, inventory, will, power of attorney or other instrument of writing, that has been lost or destroyed as aforesaid, shall be entered at full length on record, with the testimony relating thereto; and if the witness or witnesses to any such copy of any writing so lost or destroyed are dead or cannot be had, the person or persons interested therein, may produce other testimony in support of his, her, or their claim, and the testimony so produced, shall be received and recorded as aforesaid.

**SEC. 5.** The records of said court, or copies thereof, or any part thereof certified by the clerk or by any person duly authorized by law, to give certified copies of such records, shall be read in evidence in any court in this state, at any time when circumstances require it.

**SEC. 6.** All testimony relating to probate business shall be recorded in a book separate from other testimony authorized by this act to be recorded, and all copies of wills and other papers relative to decedents estates, whether testate or intestate, shall be recorded in such book, and at the close of the business of such court, the said judge shall certify such records to be true copies of the testimony produced to him, which shall be tested by the clerk and deposited with the court of probate; and the balance of his proceedings and records shall be certified in like manner and deposited with the recorder of said county, to be kept in his office for the benefit of all concerned.

**SEC. 7.** Certified copies of all wills and letters testamentary, and letters of administration, shall be admitted to record at full length, together with all authenticated vouchers, and settlement of decedents' estates, together with all testimony relating thereto, and all executors, administrators and guardians, whose bonds have been destroyed, are hereby required to file new bonds, with security to be approved of by the probate court, within three months from the time of taking effect of this act; and until such bond is filed, no such executor, administrator or guardian shall be authorized to transact business by virtue of his, her, or their appointment as such, and should no bond be filed before the expiration of three months as above, then such executor, administrator or guardian, shall be considered as having resigned said appointment, and the court of probate shall proceed to appoint others in the same manner as if a resignation or voluntary refusal had been formally made, and the person last appointed may in a reasonable time compel such person, so neglecting to comply with the provisions of this act, to settle and account for all money or other article of value that have come into his hands as such executor, administrator or guardian: *Provided however*, if any such executor, administrator or guardian is not a resident of this state or is absent, the court may then give such further time to comply as above as they shall deem reasonable.

**SEC. 8.** The said judge shall in addition to the salary allowed by law, receive the sum of two dollars per day for each and every day he may be engaged in holding said court for the purpose above, to be paid out of the county treasury of said county; and the parties concerned shall pay their own witnesses at the same rate that witnesses are paid for attending the circuit court.

**SEC. 9.** The Dubois circuit court in term time is hereby authorized and required, on motion of any person by himself, herself, or themselves, or his, her, or their attorney, on satisfactory evidence being produced that he, she or they have a judgment in said court, the records of which have been destroyed or burnt, to cause such judgment to be re-entered and recorded as of the former date; and the legal representatives of any person or persons deceased, may in like manner, on like proof being produced that his, her, or their decedents had a judgment in said court, the record of which has been destroyed or burnt, have the judgment re-entered in favor of said deceased as of a former date, and such judgment when so entered shall continue to have all the lien, and to have all the effect it could have had if the records had never been destroyed: *Provided, however*, That the judgment debtor shall have at least ten days previous notice, by personal service or publication in the newspaper published nearest the court house in said county for at least six successive weeks before such motion is made; but should the judgment debtor or opposite party deny the existence of such judgment alleged against him he shall be entitled to a jury to determine the facts, and the jury shall find a verdict according to evidence.

**SEC. 10.** The secretary of state shall furnish the president judge of the fourth judicial circuit, and the clerk of Dubois county, each with a copy of this act; and it shall be the duty of the clerk aforesaid forthwith to notify the people of said county of the time of holding said courts by posting up written notices at one of the most public places in each township in said county.

**SEC. 11.** It shall be the duty of the board of commissioners of the county of Dubois at their January session in the year 1840, or at the next session thereafter, to appoint some suitable person to assess and collect the state and county revenue for the year 1839, which assessment shall be valid for the year 1840, and the person so appointed to assess and collect the revenue of said county, shall forthwith upon being notified of his appointment, execute bond and take the oath of office in the manner now required by law; and it shall be the duty of such collector to pay over the state revenue of said county on or before the first day of Oct. 1840, and the county revenue on the first day of Oct. 1840, and in making such assessment and collection such officer shall in all respects be governed by the laws in force in relation to assessing the state and county revenue for the year 1839, so far as the same is not inconsistent with this act.

**SEC. 12.** This act to take effect and be in force from and after its passage.

## CHAPTER LXX.

An act to authorize certain individuals therein named to build a toll bridge across the Kankakee River at Sherwood's ferry in Porter county.

[APPROVED FEBRUARY 15, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That W. Eaton & Company be, and they are hereby authorized by the name and style of the Kankakee Bridge Company at Sherwood's ferry in Porter county, on the conditions following:

**SEC. 2.** Said bridge shall be at least sixteen feet wide in the clear, with good and sufficient hand railing on each side, and in all other respects strong and convenient for the passage of travelers, horses, cattle, hogs, and carriages of every description.

**SEC. 3.** The aforementioned company, their agents, assignee or assignees, shall have two years from the passage of this act, to build said bridge in manner and form as aforesaid, and they may and shall have authority to ask, demand, and receive the same rates of toll as is authorized by law to be received by the toll bridge company across this same river at the point where the Lafayette and Michigan City road crosses.

**SEC. 4.** It shall be the duty of said company, their agents or assigns, to keep up in some public place on said bridge a list of the rates of tolls allowed to be received, which list shall be printed in large English print; and for every day the same shall be neglected after reasonable time to have the same printed, they shall forfeit and pay the sum of ten dollars, to be recovered before any justice of the peace, by the person suing for the same.

**SEC. 5.** If any person or persons shall wilfully pull down, deface or destroy said printed list of rates, he, she, or they so offending, shall upon conviction thereof, forfeit and pay not less than three dollars nor more than twenty, to the use of said bridge company, and to be sued for and recovered before any justice of the peace in the name of the company aforementioned.

**SEC. 6.** It shall be the duty of the company aforementioned, their agents or assigns, to keep the said bridge in good repair and in default thereof, after reasonable time to repair the same shall forfeit their charter.

**SEC. 7.** If the aforementioned company, their agents or assigns, shall demand or receive from any person or persons, any higher or greater toll than is authorised by the third section of this act, he or they shall forfeit and pay the sum of five dollars, for the use of the road on which the bridge is located, to be recovered by action of debt at the suit of the party aggrieved.

**SEC. 8.** It shall be the duty of said company to cause the marsh

on the north and south side of the river to be kept bridged and well turnpiked from the main bridge to the Bluff on each side; said company having the benefit of the bridge now built on the south side.

**SEC. 9.** This act shall continue in force for the term of twenty one years, and be in force from and after its passage.

## CHAPTER LXXI.

An act for the relief of John D. Morrison.

[APPROVED, FEBRUARY 24, 1840.]

Whereas it is represented to this general assembly that John D. Morrison, collector of the state revenue in the county of Wayne, for the year eighteen hundred and thirty-eight, was overcharged upon the duplicate in the amount of state tax, and that he paid into the state treasury above the sum due the state one thousand one hundred and twenty-one dollars and eighty cents, which sum was loaned by the state, and ninety-three dollars received by her in interest therefrom before the said sum was repaid to the collector. And furthermore, that the said Morrison in consequence of the delay in the repayment of the sum so overpaid has sustained, in addition to the loss of the aforesaid interest, other damages to the amount of fifty dollars: Therefore,

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That John D. Morrison be allowed the sum of one hundred and fifty three dollars and fifty cents out of any money in the treasury not otherwise appropriated.

This act to be in force from and after its passage.

## CHAPTER LXXII.

An act for the relief of Mary M. Holliday, administratrix of the estate of James W. Holliday, deceased, late collector of Tippecanoe county.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the treasurer of state be, and he is hereby authorized and di-

rected to pay to the said Mary M. Holliday, or to her legal representative or agent, the sum of one hundred and ninety-five dollars and ninety-four cents out of any money in the treasury, not otherwise appropriated.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER LXXIII.

An act to authorize James T. Miller to keep a ferry across Wabash river, and for other purposes.

[APPROVED FEBRUARY 12, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That James T. Miller of Miami county, and state of Indiana aforesaid, be, and he is hereby authorized to establish a public ferry across the Wabash river at or near to and below the mouth of the Mississinawa river in the county of Miami aforesaid, at the most convenient point; *Provided*, That it shall be within half a mile of the mouth of the said Mississinawa: *And provided also*, That said Miller shall conform to, and be subject to such regulations and restrictions as the board doing county business in said county of Miami may require from other persons keeping public ferries in said county, as well as in regard to the charges for ferriage, &c. agreeably to the authority vested in said board by the act entitled an act to establish and regulate ferries, approved February 10, 1831.

SEC. 2. Said Miller is hereby appointed a commissioner to view, mark and locate a state road from said public ferry to intersect other state roads as follows: Beginning at the southern bank of the Wabash river where said ferry shall be established, as provided in the first section of this act, and running thence a southwardly direction until it shall intersect the state road (at some convenient point) which leads from Richmond in Wayne county to Peru in Miami county; also beginning on the northern bank of the Wabash river where the said public ferry shall be established, and running thence northward until it shall intersect, at some suitable point, the state road leading from Lafayette to Fort Wayne; said road may be any reasonable width, not exceeding eighty feet wide: *Provided however*, That for viewing, marking and locating said road or any part thereof, no expense shall accrue either to the state of Indiana or to the county of Miami; but the same shall be done at the expense of said Miller, but the same record shall be made of the viewing, marking and locating of said road

as are made of other state roads laid out and authorized by law, and the said state roads when laid out in manner as is herein provided, shall be, and the same are hereby declared public highways, as much so as any other state road in this state.

SEC. 3. This act to take effect and be in force from and after its publication in the Peru Gazette, a public newspaper published at the town of Peru, in the county of Miami and state of Indiana aforesaid, the expense of which publishing to be paid by said James T. Miller.

## CHAPTER LXXIV.

An act for the relief of Phebe Clymer.

[APPROVED FEBRUARY 15, 1840.]

Whereas, it appears that Phebe Clymer of the county of Miami and state of Indiana, was the purchaser of the east half of the north west quarter of section number twelve, in township No. twenty eight north of range five east, containing eighty acres of land, the same being Michigan road land, and for which she holds a deed or patent from the state of Indiana, bearing date the 4th day of December, A. D. 1837: and whereas it now appears from the late annual report of Hon. William Polke, late commissioner of the Michigan road, that said tract of land had been previously sold to one Abraham Goode, a fact till then wholly unknown to the said Phebe Clymer; and whereas the said Phebe Clymer is a widow lady, old and infirm, as well as laboring under pecuniary embarrassments: Therefore for the relief thereof,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the treasurer of state be, and he is hereby authorized and directed to pay to the said Phebe Clymer or her legal representative or agent, the sum of two hundred and fifty dollars out of any money in the treasury not otherwise appropriated, which shall be received by the said Phebe Clymer in full payment and satisfaction of her right, title, and interest in the said eighty acres of land, which she now holds by patent from the state of Indiana.

SEC. 2. Upon making payment as provided in the first section of this act, the said treasurer of state shall take a quit claim deem from said Phebe Clymer for said land, to the state of Indiana.

SEC. 3. This act to be in force and to take effect from and after its publication in the Peru Gazette, a public newspaper published at the town of Peru in said county of Miami and state of Indiana aforesaid.

## CHAPTER LXXV.

An act for the relief Julia Ann Adams.

[APPROVED FEBRUARY 24, 1840.]

Whereas, it has been represented to this general assembly that John W. Adams and the above Julia Ann Adams were married in the year 1839; that soon after their marriage the said John W. Adams commenced an extravagant, idle course of life, and shortly afterwards abandoned his wife aforesaid; and therefore, for the purpose of securing to the said Julia Ann Adams and her helpless family, the rents and profits of certain real and personal property left to her by her former husband, McCalley; and for the purpose of preventing said John W. Adams from wasting and spending the rents and profits of said property: Therefore,

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* that the aforesaid Julia Ann Adams shall have the entire control and management of the property in her hands, which she may have obtained by her own exertions or by her first husband, McCalley, to the entire exclusion of said John W. Adams.

**SEC. 2.** The said Julia Ann Adams shall have power to contract and be contracted with in all common business transactions as a feme sole, and to sue and be sued, plead and be impleaded as such in any court of law or equity in this state, and shall have the guardianship, control, and management of her children, unless otherwise directed by an order or decree of a court of competent jurisdiction.

**SEC. 3.** The power granted by the second section of this act shall not operate as a divorce or authorize a contract of marriage.

This act to take effect and be in force from and after its passage.

## CHAPTER LXXVI.

An act for the relief of Loyd Wedding.

[APPROVED, FEBRUARY 22, 1840.]

Whereas, it has been represented to the General Assembly of the State of Indiana, that on or before the 14th day of October, 1839, Loyd Wedding of the county of Daviess was the owner of and actual resident upon, the west half of the south west quarter of section thirty-three, in township three, north of range five west, in said county, and

that said tract of land was, by the mistake of the assessor of said county, assessed as the property of non-residents, and returned as delinquent for the non-payment of the taxes thereon to the treasurer of said county, and by him to the treasurer of state: and whereas, it further appears, that said Loyd Wedding did, within the proper time, pay the taxes on said tract of land, and has obtained therefor the receipt of the collector of said county; therefore,

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That all right, title, and interest, which the said Loyd Wedding had in and to said tract of land, before the return of the same as delinquent as aforesaid be, and the same are hereby restored and confirmed to the said Loyd Wedding, and all the said proceedings against the same as delinquent be, and the same are hereby declared null and void.

**SEC. 2.** This act to be in force from and after its passage.

## CHAPTER LXXVII.

An act for the relief of Eldred Huff, collector of Hendricks county.

[APPROVED, FEBRUARY 20, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That Eldred Huff, collector of the revenue of Hendricks county for the year 1839 have, until the first Monday in May, 1840, to collect and pay over to the treasurer of said county the county revenue of said county, yet remaining due and uncollected by said collector, and said collector shall be governed in the collection thereof in the same manner and under the same laws and regulations now in force in this state for the collection of the same, except as to the time of the payment thereof as aforesaid.

**SEC. 2.** This act shall take effect and be in force from and after its passage and the filing a certified copy thereof in the office of the clerk of the Hendricks county circuit court; and it is hereby made the duty of the secretary of state to make out a certified copy of the same, immediately after the passage thereof, and transmit it to the clerk of the Hendricks circuit court; and it is hereby made the duty of said clerk to file the same in his office.

## CHAPTER LXXVIII.

An act for the relief Marion County,

[APPROVED FEBRUARY 10, 1840.]

**SEC. 10.** *Be it enacted by the General Assembly of the State of Indiana,* That the Marion circuit court, at its next or some subsequent term, be authorized, and it is hereby made its duty to audit and allow all expenses which the county of Marion has paid, or is liable and bound to pay, for services of associate judges, jurors necessarily in attendance in said court, and officers attending the juries, and for fuel and stationery, while trying the following criminal cases, brought to said county on a change of venue, to-wit: The state of Indiana against Jason Rust, on an indictment for an assault and battery with intent to commit murder, brought to said county of Marion on a change of venue from the county of Morgan, and tried and determined at the April term in the year eighteen hundred and thirty-nine of said circuit court; the state of Indiana against Calvin Huff, George W. Preston, John Northern and Samuel Northern, on an indictment for forgery and retaining counterfeiting apparatus, brought to said county of Marion on a change of venue from Morgan county aforesaid, and tried and determined at the October term in the year eighteen hundred and thirty-nine of said Marion circuit court; and the state of Indiana against Lemuel Carter and Salathael Carter on an indictment for arson, brought to said county of Marion on a change of venue from the county of Hamilton, and tried at the October term in the year eighteen hundred and thirty-nine of said Marion circuit court.

**SEC. 2.** That the clerk of said Marion circuit court certify the said several amounts when audited and allowed as aforesaid, to the boards doing county business of the respective counties from which said cases were severally brought, which boards are authorized, and it is hereby made their duty to allow said amounts, payable out of their respective treasuries in the same manner that other just claims against said counties are allowed and paid, to be drawn by the clerk of said Marion circuit court, or the treasurer of said county of Marion, and paid into the treasury thereof, to be appropriated as other funds of the county are.

**SEC. 3.** This act to take effect and be in force from and after its passage, and that a certified copy thereof by the secretary of state be sufficient authority for said Marion circuit court, and said several boards doing county business to proceed to the performance and discharge of the duties therein enjoined on them respectively.

## CHAPTER LXXIX.

An act for the relief of James Copland and Macklin Copland.

[APPROVED FEBRUARY 22, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the deposit of interest made with John Pugh, school commissioner of Jefferson county, by James Copland, Macklin Copland, on the 7th day of October, 1839, for the arrearages of interest due and payable on the west half of the southwest quarter of section sixteen in township five north, of range eleven east, and which interest ought to have been paid on the 13th day of December, 1837, shall be taken and accepted by said school commissioner in the full satisfaction of the interest due and payable on said 13th day of December, 1838, and shall be as valid to said James Copland and Macklin Copland as if the same had been made on said 13th day of December, 1838; and no forfeiture or other penalty shall be worked or occasioned thereby.

This act to be in force from and after its passage.

## CHAPTER LXXX.

An act to locate a state road in Green county.

[APPROVED FEBRUARY 7, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That C. J. Brackman, Daniel M. Ingersoll, and Elias Crane be appointed commissioners to view, mark, and locate a state road from Point Commerce to Fair Play.

**SEC. 2.** The direction of said road shall be with the road from Point Commerce to Terre Haute until the same crosses Eel river, after which to take such direction to Fair Play as in the opinion of the commissioners shall best promote the public convenience.

**SEC. 3.** That the commissioners, after having taken an oath or affirmation faithfully and impartially to discharge their respective duties according to the provisions of this act, shall at any time before the first day of July 1840, proceed to view, mark, and locate said road, and within thirty days thereafter to file a report of their proceedings in the office of the clerk of the county aforesaid.

**SEC. 4.** That the board doing county business shall at their first meeting after the report has been made and filed in the clerk's office;

cause said road to be placed under the care of a suitable supervisor whose duty it shall be to open and keep the same in repair as other roads in this state.

This act to be in force from and after its publication.

### CHAPTER LXXXI.

An act to repeal an act entitled an act to vacate a state road from Corydon in Harrison county to the Ohio river, opposite the mouth of Salt river in Kentucky.

[APPROVED FEBRUARY 7, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the act entitled an act to vacate a state road from Corydon in Harrison county to the Ohio river, opposite the mouth of Salt river in Kentucky, approved February 18, 1839, be, and the same is hereby repealed.

This act to take effect and be in force from and after its passage.

### CHAPTER LXXXII.

An act to legalize the proceedings of road commissioners of De Kalb county.

[APPROVED, FEBRUARY 24, 1840.]

*Be it enacted by the General Assembly of the State of Indiana,* That a state road located by Ariel Walden, Daniel Straig and Lot Herrick, from Allen county through De Kalb county to the state line of Ohio, be, and the same is hereby legalized and declared a state road to all intents and purposes.

This act to take effect and be in force from and after its passage.

### CHAPTER LXXXIII.

An act for the relief of the widow, heirs, and administrators of William Watts, deceased.

[APPROVED FEBRUARY 15, 1840.]

Whereas, William Watts, late of Vanderburgh county and state of Indiana, deceased, being an alien, purchased at the land office at Vincennes, the north-west quarter of the north-east quarter of section number twenty-eight, in township number four, south of range number ten west, in the district of lands offered for sale at Vincennes Indiana, and afterwards died without disposing of, and in possession of the same, and without complying with an act entitled an act authorizing aliens and foreigners to hold real estate within the state of Indiana, approved January 14th, 1818; whereby the title thereto became vested in the state of Indiana; and whereas the said William Watts has left a widow and infant children; and whereas, also, it has been found necessary under an order of the probate court of said county, for the administrator of the estate of the said William Watts to sell a part of the said tract of land for the purpose of paying the debts and demands against said estate: Therefore,

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the title to the said tract of land, shall vest in the widow and heirs, and the vendee of the administrator of the said William Watts, in the same manner that it would have done had the said William Watts been a citizen of the United States at the time he purchased the same.

### CHAPTER LXXXIV.

An act for the relief of William B. Campbell.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the treasurer of state be, and he is hereby authorized and required to pay to William B. Campbell the sum of thirty-three dollars out of any money in the treasury not otherwise appropriated, for services rendered in pursuance of an order of the governor of this state, in going to the state of Ohio to obtain a fugitive from justice of this state.

## CHAPTER LXXXV.

An act for the relief of the heirs of Robert Meek, deceased.

[APPROVED JANUARY 22, 1840.]

Whereas, it is represented to this general assembly that Robert Meek, deceased, was security for Moses Gray for the due and faithful discharge by the said Moses Gray of his duties of trustee of the county seminary of Scott county, and that said Moses Gray has become insolvent, and by reason of the breach of his official bonds, has involved the estate of the said Robert Meek, deceased.

*SEC. 1. Be it therefore enacted by the General Assembly of the State of Indiana,* That the board doing county business in the county of Scott be, and they are hereby authorized to make such compensation [compromise] and agreement with the administrator of said Robert Meek, deceased, and to discharge and acquit the estate of the said Robert Meek, deceased, from liability by reason of said securityship on such equitable and reasonable terms as they may think proper.

This act to be in force from and after its passage.

## CHAPTER LXXXVI.

An act for the relief of Mentor S. Johnson, collector of Clay county.

[APPROVED FEBRUARY 24, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,* That Mentor S. Johnson, collector of the state and county revenue in the county of Clay for the year 1839, be, and he is hereby authorized to withdraw the delinquent list by him as such collector filed in the clerk's office of said county on the second day of December 1839.

*SEC. 2.* That the said collector be allowed until the first day of May next to complete his collection for the year aforesaid, and that he file his delinquent list in said clerk's office on or before the day last aforesaid.

*SEC. 3.* This act to be in force from and after its passage.

## CHAPTER LXXXVII.

An act for the relief of Adolphus Huggins, of Ripley county.

[APPROVED FEBRUARY 24, 1840.]

Whereas, Adolphus Huggins of Ripley county, in the year 1827 built a mill dam across Ripley creek in said county, which dam was and is on the land of said Huggins; and whereas also, at the time of building said dam, the land above said dam and in the vicinity of the same, was the property of the United States; and whereas the said Adolphus Huggins at the time when he built said dam, neglected to have the seat condemned; therefore,

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,* That the circuit court within and for Ripley county be, and they are hereby authorized to extend to the said Adolphus Huggins the privileges and benefit of the writ of ad quod damnum in the same way and manner that the said court would be authorized to grant said writ to any person wishing to build a dam and mill and other machinery.

*SEC. 2.* The proceedings under said writ shall be governed in all respects, so far as the same may be applicable to the law now in force allowing and regulating the writ of ad quod damnum, approved December 29th, 1823: *Provided however,* That nothing in this act shall be so construed as in any way or manner to affect any suit now pending in any court in this state, or mill or mills heretofore erected on the same stream on the land or lands of any person or persons whatever.

This act to take effect and be in force from and after its passage.

## CHAPTER LXXXVIII.

An act for the relief of George Crawford and James R. McCord.

[APPROVED FEBRUARY 12, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,* That George Crawford and James R. McCord of the county of Elkhart be, and they are hereby exempted from all the forfeitures and exactions required by the provisions of the eighteenth section of chapter eight of an act entitled an act incorporating congressional townships and providing for public schools therein, approved February 17, 1838,

which may have been incurred by reason of any failure hitherto to pay interest on the purchase of lots, numbers one and two, of section number sixteen, in township number thirty-six, north of range six east, in the county of Elkhart, and they are hereby reinstated in all the rights and privileges of purchasers of school lands under the provisions of said act: *Provided*, That they, the said Crawford and McCord or either of them, shall promptly pay all arrearages of legal interest now due on said purchase: *And provided further*, That they or either of them, shall hereafter pay all interest coming due on account of said purchase, agreeably to the provisions of the seventeenth and eighteenth section of the eighth chapter of the act aforesaid.

This act to take effect and be in force from and after its passage.

#### CHAPTER LXXXIX.

An act for the relief of Isaac Pinnick.

[APPROVED FEBRUARY 10, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the commissioner of the saline lands of the county of Orange be, and he is hereby directed and authorized to receive of Isaac Pinnick the interest or instalment, as the case may be, due and owing to the state of Indiana for interest or purchase money on the northeast quarter of section fifteen, in town two, north of range two west, sold to the said Pinnick by Andrew Wilson, acting commissioner on the saline reservations in the said county of Orange.

**SEC. 2.** That on the payment of said Pinnick, of the interest that is now due or has become due on said purchase, on or before the first day of June next no defalcation that he may have made heretofore shall work a forfeiture of his right to said land as intended to be granted by the original contract.

**SEC. 3.** This act shall be in force and have effect from and after its passage.

#### CHAPTER XC.

An act for the relief of Conrod Stacer of Vanderburgh county, Indiana.

[APPROVED FEBRUARY 7, 1840.]

Whereas, doubts have been expressed relative to the right of Conrod Stacer of Vanderburgh county to hold and enjoy real estate, and to have the right to sell and dispose of the same, said Stacer being a foreigner by birth and having made an application for naturalization in the county of Henderson in the state of Kentucky when a minor; and said Conrod Stacer having resided in the said county of Vanderburgh for the last twenty-three years, and being now possessed of certain real estate, and having sold real estate heretofore; therefore,

*Be it enacted by the General Assembly of the State of Indiana*, That said Conrod Stacer of the county of Vanderburgh and state of Indiana, be, and he is hereby entitled to all the rights and privileges of an American citizen in the selling and disposing of real estate or other property.

**SEC. 2.** And that all sales and contracts of said Conrod Stacer in relation to the sales of real estate be, and the same is hereby placed in the same situation as if said Conrod Stacer had at the time of said contract and sale been an American by birth.

**SEC. 3.** This act to take effect and be in force from and after its passage.

#### CHAPTER XCI.

An act for the relief of A. W. Noe.

[APPROVED JANUARY 25, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the auditor of state is authorized to audit and the treasurer of state to pay A. W. Noe, out of any money in the treasury, fifty-seven dollars and thirty-seven cents for services rendered by order of the Governor.

This act to be in force from and after its passage.

CHAPTER XCII.

An act supplemental to an act relating to public roads and highways

[APPROVED JANUARY 22, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,*  
That the board doing county business in the county of Lawrence, be  
authorized and required to establish, open and keep open, such creeks  
in said county as are navigable for flat boats at high water, as public  
highways under the same rules and regulations that roads and high-  
ways are now authorized to be established and kept in repair by law.

CHAPTER XCIII.

An act to vacate a certain state road in the county of St. Joseph.

[APPROVED FEBRUARY 22, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,*  
That a certain state road in the county of St. Joseph, commencing at  
Portage Point in said county; from thence running in a northeasterly di-  
rection, to the east line of section twenty-seven, in township thirty-eight,  
north of range two east; thence north on the best and most suitable  
route to the northern boundary line of the state of Indiana, be, and the  
same is hereby vacated.

**SEC. 2.** *Be it further enacted*, That the third section of an act entitled an act to establish certain state roads therein named, and for other purposes, approved February 18, 1839, be, and the same is hereby repealed.

This act to take effect and be in force from and after its passage.

CHAPTER XCIV.

An act for the relief of certificate holders to certain school lands in Monroe county.

[APPROVED FEBRUARY 22, 1840.]

Whereas, it has been represented that the certificate of the township clerk of congressional township number ten, north of range number two west, in Monroe county, on file in the office of the school commissioner of said county, does not sufficiently describe the several lots of land contained in the sixteenth section of the aforesaid township, by reason whereof the school commissioner of said county is unable to make good and sufficient deeds of conveyance to the purchasers of said lands; for remedy whereof,

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,*  
That James Putnam, John Burton, and William Brady, or any two  
of them after being duly qualified by some person authorized to ad-  
minister oaths, are hereby authorized to make out a correct certificate in  
which they shall accurately describe each lot of land contained in  
the sixteenth section of township number ten, north of range number  
two west, in Monroe county, as originally run out, and it is hereby  
made their duty to furnish the school commissioner of said county and  
the clerk of the board of said township trustees, with a certified copy  
of their proceedings on or before the tenth day of March next, whose duty  
it shall be to record the same in their books; and the school commis-  
sioner aforesaid in making deeds to said lands, shall be governed there-  
by.

SEC. 2. It shall be the duty of the board doing county business in the county of Monroe, to make a reasonable compensation to James Putnam, John Burton and William Brady, or such of them as shall perform the duties required in this act.

This act to take effect and be in force from and after its publication in the Bloomington Post, which publication shall not be at the expense of the state.

## CHAPTER XCV.

An act for the relief of James D. Conoway of Hancock county.

[APPROVED JANUARY 16, 1840.]

Whereas, it has been represented to the general assembly of the state of Indiana, that James D. Conoway has failed through mistake, to pay the interest due upon a mortgage previously executed by said Conoway to the school commissioner of Hancock county, by means whereof the same has become forfeited to the school funds; for remedy thereof,

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,*  
That the school commissioner of Hancock county be, and he is hereby authorized to extend to the said James D. Conoway six months' time from and after the passage of this act, to redeem said land, which is known as being west part of southeast quarter of section number four, township seventeen, north of range seven east, containing eighty acres, situated in Hancock county aforesaid.

This act to be in force from and after its passage.

## CHAPTER XCVI.

An act to establish a certain state road therein named.

[APPROVED FEBRUARY 24, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,*  
That Benjamin Shaw, Arthur McClure and Asaph Webster be, and they are hereby appointed commissioners to lay out, survey and mark a state road as follows to wit, viz: Beginning at the Kankakee bridge, where the Lafayette and Trail creek state road crosses the Kankakee in Stark county; thence on the nearest and best route to Belmont and Newark mills in Noble township, LaPorte county; thence on the nearest and best ground to the Door village in LaPorte county; said commissioners shall be governed in all respects by the provisions of the law now in force relating to public roads and highways, approved Feb. 17, 1838.

*SEC. 2.* That it shall be the duty of said commissioners to meet on the first Monday of June A. D. 1840, or as soon thereafter as shall be convenient, at said Kankakee bridge, and discharge the duties assigned them in the first section of this act.

*SEC. 3.* This act to be in force from and after its passage.

## CHAPTER XCVII.

An act for the relief Peter Hussey.

[APPROVED FEBRUARY 15, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,*  
That the name of Peter Hussey be, and the same is hereby changed to that of Sidney H. Gohlson: *Provided*, That nothing in this act shall affect the rights of any person or persons whatsoever.

This act to be in force from and after its passage.

## CHAPTER XCVIII.

An act to repeal a part of the 50th and 51st section of an act entitled an act relating to state roads, approved February 6th, 1837.

[APPROVED, FEBRUARY 24, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,*  
That so much of the fifty and fifty-first sections of an act entitled an act relating to state roads, approved, February 6th, 1837, as authorises the viewing, marking, and locating a state road from George Baker's in Bartholomew county, to George Hollandbacks, in Johnson county, and so much of said sections as vacates so much of the Mauk's ferry road as lies between George Baker's and George Hollandbacks, be, and the same is hereby repealed.

*SEC. 2.* That David Durbin be, and he is hereby appointed a commissioner to make such an alteration in the Mauk's ferry state road, that the same shall pass by Isaac Collins' mill, in Johnson county.

## CHAPTER XCIX.

An act to authorize the re-location of the state road passing through the town of Rising Sun, in the county of Dearborn.

[APPROVED, FEBRUARY 18, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,*  
That Thomas Howard, Samuel Steel, and Abijah North be, and they are hereby appointed commissioners to re-locate the state road from

Lawrenceburg to Vevay, where it passes through the town of Rising Sun, in the county of Dearborn, so as to have the same pass in a direct line from Front street in the plat of the old town through an intervening lot of Samuel Jelly and others, so as to connect with Front street in Graham's addition to said town, the same width as said streets, and assess such damage in behalf of the owners of said intervening ground, if any, as to them shall seem just and equitable. That when the same shall have been so re-located and the damage, if any, ascertained and paid or secured, to be paid by the incorporated authorities of the said town of Rising Sun, it shall be lawful for the overseer of that part of said state road to cause the same to be opened and made a part of Front street in said town of Rising Sun.

## CHAPTER C.

An act to vacate a part of a certain state road.

[APPROVED, FEBRUARY 24, 1840.]

*Be it enacted by the General Assembly of the State of Indiana,* That so much of the state road running on the east line of Rush county as lies between the Brookville and Rushville state road, and the south-east corner of Rush county be, and the same is hereby vacated.

This act to be in force from and after its passage.

## CHAPTER CI.

An act for the relief of R. and H. Stewart.

[APPROVED, FEBRUARY 18, 1840.]

Whereas, it is represented to this General Assembly that R. & H. Stewart, contractors on the Jeffersonville and Crawfordsville road, and the New Albany and Vincennes road, have not had a full and just estimate of the work done, and money due, on said contracts; therefore,

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,* That all matters in difference, between the said contractors and the state, on account of said contracts, or the labor performed thereon is hereby referred to the arbitrament and award of five persons, two of which shall be appointed by the board of internal improvement, two by the said contractors, and one by the four thus appointed.

*SEC. 2.* Said arbitrators shall, in all respects, be governed by the laws now in force, relative to arbitrament, as to the examination of testimony, and may employ an engineer for the purpose of measuring said work.

*SEC. 3.* The said contractors shall file in the office of the clerk of the Floyd circuit court, a statement in writing, setting forth particularly their claim against the state, and on what founded; a copy of which statement shall be served with the notice hereinafter required.

*SEC. 4.* Notice of the time and place of meeting of said arbitrators shall be in writing, and served on a member of the board of internal improvement, or on the person having the general superintendence of said line, which service shall be made at least fifteen days before the time of meeting.

*SEC. 5.* The arbitrators shall make their award in writing, to which a majority of them shall agree and sign, and file the same with the clerk of the Floyd circuit court within five days after the same is made, and it is hereby made the duty of said clerk forthwith after the filing of said award to notify said contractors and said board of such filing.

*SEC. 6.* Either the said contractors or the said board, or any member thereof, may appeal from said award, to the circuit court by filing a notice of the same in said clerk's office, within thirty days after notice of the award being filed: *Provided*, that in case of appeal on the part of said contractors, they shall file a bond and security, to be approved of by the clerk, in a sum sufficient to pay all cost.

*SEC. 7.* In case of appeal, the circuit court shall try the case *de novo.*

This act to take effect and be in force from and after its passage.

## CHAPTER CII.

An act for the benefit of the Assessor of Lawrence county, and for other purposes.

[APPROVED, FEBRUARY 24, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,* That it shall be lawful for the assessor of the county of Lawrence, to make the return of his assessment, on the first Monday in June, to the county board, instead of making out and delivering his assessment roll to the county clerk on or before the first Monday in May as heretofore required.

*SEC. 2.* It shall be the duty of the secretary of state immediately upon the approval of this act, to transmit a copy thereof to the said clerk, who shall file the same in his office, and it shall thenceforth be in force.

*SEC. 3. Be it further enacted,* that hereafter it shall be the duty of the board doing county business for the county of Lawrence, annually

at the January term of their court, to appoint the requisite number of supervisors for the different road districts in said county; and do and perform any other acts, at said January terms, in relation to roads and highways, required by law at any other term of their court.

### CHAPTER CIII.

An act for the relief of the heirs of Martin Berg.

[APPROVED FEBRUARY 7, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That all the estate and interest of the State of Indiana, in any lands situated in any county in said state, of which the said Martin Berg, late of Bartholomew county deceased, died seized, acquired by escheat of the same, is hereby released to, and vested in such persons, being inhabitants of the United States, as would take the same by devise, descent, or in right of dower, as if the said person and the persons hereby authorized to take, had been native citizens of this State.

**SEC. 2.** The persons taking under this act, shall take estates of the same nature and extent as they would have taken if they and the said Martin Berg had been a native citizen of this state.

This act to be in force from and after its passage.

### CHAPTER CIV.

An act for the relief of the collector of Lake county.

[APPROVED, FEBRUARY 13, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That Solomon Russell, collector of the county of Lake, be allowed until the first Monday of March next to settle with the treasurer of state, and also with the board doing county business, and that he be allowed his per centage, &c., that he would have been entitled to had his settlement been made at the time specified by an act to provide for an equitable mode of levying the taxes of this state, approved, February 7, 1839.

This act to be in force from and after its passage.

### CHAPTER CV.

An act for the relief the collector of St. Joseph county.

[APPROVED JANUARY 18, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the collector of the revenue of St. Joseph county be, and he is hereby allowed until the 16th day of January, 1840, to settle with the treasurer of state for so much of the state revenue as is levied upon bank stock in said county of St. Joseph, and that such collector be allowed his per centage, mileage, &c. that he would have been entitled to had his settlement been made at the time specified by an act to provide for an equitable mode of levying and collecting the tax of this state, approved Feb. 18, 1839.

This act to take effect and be in force from and after its passage.

### CHAPTER CVI.

An act for the relief of Nicholas G. Cromwell and others.

[APPROVED JANUARY 22, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the board doing county business in the county of Clay be, and they are hereby authorized to appropriate, and order their treasurer to pay over to Nicholas G. Cromwell and others, any sum they may think proper of the funds of said county, as an indemnity to said persons for their trouble and expense heretofore incurred in the apprehension of horse thieves.

**SEC. 2.** This act to take effect and be in force from and after its passage.

## CHAPTER CVII.

An act for the relief of the heirs and administrators of John Tipton, dec'd.

[APPROVED FEBRUARY 13, 1840.]

Whereas, the Hon. John Tipton died suddenly and unexpectedly, possessed of a large landed estate, scattered throughout the several counties of this state, under the care of various agents, and his heirs and administrators from their previous ignorance of the extent and situation of said estate were not able to bestow upon the several tracts of lands belonging to said estate that prompt attention which, under other circumstances they would have done, in consequence of which and of the neglect or failure of his said agents to pay the taxes assessed upon such lands, many of them have been returned for non-payment of taxes: Therefore,

*Be it enacted by the General Assembly of the State of Indiana,* That the heirs and administrators of said John Tipton, deceased, be, and they are hereby allowed one year longer after the taxes heretofore assessed may have become due to pay the same without the land or lands so taxed being subject to any forfeiture.

This act to be in force from and after its passage.

## CHAPTER CVIII.

An act granting relief in a certain case therein named.

[APPROVED JANUARY 30, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the school commissioner of the county of Carroll be, and hereby is authorized to receive from Samuel Grimes, on an exact estimate all that would have been received in cash, by way of interest on the residue of the purchase money of the north-west quarter of section number sixteen in congressional township number twenty six, north of range number two west, school land in Carroll county, in case such interest had been promptly paid to the credit of said congressional township; which when paid shall be received in full of such interest, and of the claim of said township on such land.

**SEC. 2.** On such payment being made, with all costs accrued, said Grimes shall be and hereby is reinstated in his title and claim to said land, as fully as if no such forfeiture had happened.

This act to take effect and be in force from and after its passage.

## CHAPTER CIX.

An act for the relief of John Wynn and others.

[APPROVED FEBRUARY 24, 1840.]

Whereas, it has been represented to the General Assembly of this state, that Isabella Eldon, late of Franklin county, Indiana, deceased, who was at the time of her death a subject of the kingdom of Great Britain, died intestate, seized in fee of certain lands situate in said county, leaving John and Joseph Wynn, naturalized citizens of the United States, and James and Isabella Medd, natural born citizens of the same, her heirs at law; and that in consequence of the deceased, her heirs are incapable of inheriting her estate:

*Be it therefore enacted by the General Assembly of the State of Indiana,* That the lands, tenements and hereditaments of the said Isabella Eldon died seized as aforesaid situate in the county aforesaid, shall descend to and vest in such of her heirs as were by the laws of this state, capable of acquiring real estate by descent at the time of her death, in the same manner as though the said Isabella Eldon had been a citizen of the United States.

This act to take effect and be in force from and after its passage.

## CHAPTER CX.

An act for the relief of the collector of the county of Orange.

[APPROVED FEBRUARY 15, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the collector for the county of Orange be, and he is hereby allowed further time to collect and pay into the treasury the revenue of said county of Orange until the second Monday in May, 1840, at which time it shall be the duty of said collector to pay over to the treasurer of said county, the entire amount of revenue belonging to said county.

**SEC. 2.** This act to be in force and have effect from and after its passage.

## CHAPTER CXI.

An act for the relief of Julia Sims.

[APPROVED JANUARY 18, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That all the right, title, claim, and interest whatsoever, which the state of Indiana may or might have in or to the real estate, whereof one Edward Sims, a man of color, now deceased, died seized, within the borough of Vincennes, and also in or to the proceeds of such real estate, if any, in the hands of the administrator, of said Edward is hereby granted to, and vested in Julia Sims, a woman of color of Vincennes, and the reputed wife of said Edward.

This act to be in force from and after its passage.

## CHAPTER CXII.

An act for the relief of the collector of Laporte county.

[APPROVED, DECEMBER 19, 1839.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the collector of the revenue of the county of Laporte for the year 1839, be allowed until the first day of February next (1840) to settle with the treasurer of state for said revenue, upon which settlement the collector aforesaid shall be allowed his legal claims, per centage, mileage and delinquent list to which he would have been entitled, if such settlement had been made within the time prescribed by an act to provide for an equitable mode of levying the tax of this state, approved, February 7, 1835.

This act to be in force from and after its passage.

## CHAPTER CXIII.

An act for the relief of William Kempton.

[APPROVED, FEBRUARY 10, 1840.]

Whereas, it is represented to this General Assembly, that one John Thorburn, late of Jefferson county, Indiana, deceased, in his life time

purchased in fee simple, a certain tract of land lying and being in said county, and being a part of the north east quarter of section number nineteen, township number three, north of range nine east, bounded as described in the conveyance thereof, containing sixty-three acres, one rood, and thirty-nine poles more or less; and whereas the said John Thorburn was at his death an alien, and by reason thereof the said land would vest in the state; and whereas, since his death, his heirs have, by their attorneys, sold and conveyed said land to one William Kempton of said county; therefore,

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That all right and title, either legal or equitable, which the state of Indiana has in and to said land conveyed, or intended to be conveyed by said attorney of the heirs of said John Thorburn, deceased, to the said William Kempton be, and the same is hereby vested in the said William Kempton, his heirs and assigns, forever.

This act to take effect and be in force from and after its passage

## CHAPTER CXIV.

[APPROVED FEBRUARY 18, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the board of internal improvement be, and they are hereby required, as soon as practicable after the passage of this act, to appoint some disinterested person, and the said Julia A. Wernwag is hereby authorized to select another disinterested individual, and they two having been so selected, shall choose a third person, who when so chosen, shall constitute a board of arbitrators for the purpose of assessing the damages sustained by William H. Wernwag, deceased, on his contract upon the Cross-cut canal.

**SEC. 2.** The said arbitrators when so chosen, shall proceed to examine the work actually done by the said Wernwag on said contract and in making preparations to commence the same, including the cutting of roads, building of shanties, and the loss sustained by the sale of tools and other articles necessary for the prosecution of said work, and in the prosecution of their inquiry, the said arbitrators shall be authorized to call to their aid a competent engineer, and to hear such other evidence as may enable them to arrive at the justice of the case.

**SEC. 3.** The said arbitrators after taking into consideration the amount of work done and the damages sustained under the provisions of the second section of this act, shall make out their award in writing in such sum as might have been justly and equitably due the said William H. Wernwag, were he now living, and file the same with the mem-

ber of the board having charge of said work, who shall pay the same to the said Julia A. Wernwag, widow of William H. Wernwag, deceased.

**SEC. 4.** This act shall take effect and be in force from and after its passage.

#### CHAPTER CXV.

An act to provide for the election of a justice of the peace in Alquina, Fayette county.

[APPROVED FEBRUARY 15, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That a justice of the peace shall be elected for the town of Alquina, in Fayette county, by the qualified voters of Jennings township, in which said town is situated, in the same manner they might or could do if said town was incorporated.

**SEC. 2.** Such justice of the peace when elected and commissioned shall take the oath of office and give bond as is required by law, and shall do and perform all duties and acts as are by law required of such officers, and shall be held amenable in all cases as other justices of the peace.

**SEC. 3.** The said justice shall vacate his office whenever he shall move from said town of Alquina, and the vacancy shall be filled as all other vacancies of the kind.

**SEC. 4.** The said justice shall in a reasonable time after his election, demand and receive from John Burk, Esq. a justice of the peace for Jennings township in said county, the docket or dockets handed over to Esq. Levingston, a former justice of said township, by James C. Ross, Esq. and shall have full jurisdiction over the same, when so received, that the said Burk would have had under the laws of this state, if this act had not been passed.

**SEC. 5.** The board doing county business of Fayette county, at their next session, or the clerk in vacation, shall cause this act to be carried into effect, according to the laws now in force providing for the election of a justice of the peace in vacation.

This act to take effect and be in force from and after its passage.

#### CHAPTER CXVI.

An act for the relief of Wesley White, late collector of Putnam county and his securities.

[APPROVED DECEMBER 14, 1839.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That it shall be lawful for Wesley White, collector of the revenue of Putnam county for the year 1838, to sue for and collect, before any justice of the peace having jurisdiction, from any person or persons owing taxes for said year, the several sum or sums of money due to the said collector, as such; *Provided*, That no suit shall be commenced until after demand shall have been made by the said collector of the sum due.

**SEC. 2.** That the board of commissioners of the county of Putnam be authorized to give such further time for the payment of the county revenue for the said county of Putnam for the year 1838, as to them may seem right, and that the said board be invested with full power and authority to make any contract or arrangement, either with the collector for the year 1838 or his securities or both of them, in relation to the county revenue of said county.

**SEC. 3.** This act to take effect and be in force from and after the filing of the same in the clerk's office of Putnam.

#### CHAPTER CXVII.

An act to authorize the election of a justice of the peace and a constable in the town of Fredericksburgh, in the county of Washington.

[APPROVED FEBRUARY 18, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the board doing county business in the county of Washington is hereby authorized and required at their first session or term after the taking effect of this act, or as soon thereafter as practicable, order an election of one additional justice of the peace and one additional constable, to reside in the town of Fredericksburgh in said county, to be elected by the qualified voters of the township in which said town is situated, which elections of said officers shall be conducted in all things

according to the general laws that now are or that may hereafter be in force, regulating the elections of justices of the peace and constables in this state.

SEC. 2. That if the said justice of the peace shall not hold his office in said town or shall remove therefrom, his office shall thereby become vacated, and if the said constable shall fail to reside in said town he shall thereupon forfeit his office.

SEC. 3. All vacancies that shall happen in the offices herein provided for and authorized, or in either of them, it shall be lawful to fill said vacancy or vacancies as in other cases of vacancies of the offices of justices of the peace and constables by the general laws of this state.

**CHAPTER CXVIII.**  
An act to provide for the election of a justice of the peace in the town of New London, in Daviess county.

[APPROVED JANUARY 18, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board doing county business in the county of Daviess, be, and they are hereby authorized at their next session after the passage of this bill, or their clerk in vacation, to order an election for the purpose of electing a justice of the peace in the town of New London in said county, which election shall be conducted according to the law now in force providing for the election of justices of the peace.

SEC. 2. Said justice of the peace when elected, shall reside and keep his office in the town of New London, and on failure of said justice to comply with the provisions of this section, the office shall become vacant, and may be filled as in other cases of vacancy.

SEC. 3. This act to take effect and be in force from and after its passage.

## CHAPTER CXIX.

An act concerning the duties of School Commissioner of Crawford county.

[APPROVED FEBRUARY 13, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the school commissioner of the county of Crawford be, and he is hereby directed and authorized after thirty days' notice in the Leavenworth Arena, or other newspaper in case the said Arena should be discontinued, to cause to be sold in the manner prescribed by law for such purposes, the quarter section of land set apart and given by the Congress of the United States for the benefit of schools situate in fractional township No. five, south of range one east of land in the Jeffersonville land district, as soon as may be after a majority of legal voters of said fractional township shall certify to said school commissioner that in their opinion it will be for the benefit of the resident inhabitants of said fractional township that said school land shall be sold according to the provisions of the existing laws of this state relative to the sale of school lands.

SEC. 2. This law shall be in force and have effect from and after its passage.

## CHAPTER CXX.

An act to vacate part of the town of Shepherdstown.

[APPROVED, FEBRUARY 24, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of the town of Shepherdstown as lies within the state of Indiana and Vermillion county, be and the same is hereby vacated.

This act to take effect and be in force from and after its passage.

## CHAPTER CXXI.

An act concerning school districts in Scott county.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the township trustees in said county be, and they are hereby authorized to attach any person or persons of one school district in said county to any adjoining school district whenever in their opinion justice or convenience may require it: *Provided*, That the number of scholars in any district shall not be reduced to a number less than twenty-five.

**SEC. 2.** This act to take effect and be in force from and after its passage.

## CHAPTER CXXII.

An act providing for the election of three School Commissioners in township No. 14, north of range No. 7 west, in Parke county.

[APPROVED DECEMBER 14, 1839.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That it shall and may be lawful for the qualified voters of the township aforesaid, three weeks previous notice of the time and place of holding the same being given by publication thereof in a public newspaper printed in said county, to hold an election in said township, for the purpose of electing three school commissioners, which election shall be conducted in all respects as provided in the law regulating general elections.

**SEC. 2.** The commissioners, before entering upon the duties of their office, shall give bond payable to the state of Indiana for the use of schools in said township, in the penalty of three thousand dollars, with three freehold securities to be approved of by the board of county commissioners of said county, conditioned for the faithful discharge of the duties of their office, and for paying over to their successors in office all money that may come to their hands in virtue thereof; which bond shall be filed and recorded in the recorder's office of said county; they shall also take an oath for the faithful performance of their duties. Said commissioners shall receive all money accruing from the sale of the sixteenth section in said township, and in all things

not inconsistent with the preceding provisions of this act. The said commissioners shall be governed by the laws now in force, defining and regulating the duties of school commissioners, and shall hold their office for the term of three years from the first Monday in April next, and until their successors are elected and qualified, if they shall so long behave well.

**SEC. 3.** No sale of said 16th section shall be made until the said commissioners are elected and qualified.

This act to take effect and be in force from and after its passage.

## CHAPTER CXXIII.

An act to repeal an act providing for a more uniform mode of doing township business, approved February 17th, 1838," so far as relates to Madison county.

[APPROVED FEBRUARY 24, 1840.]

*Be it enacted by the General Assembly of the State of Indiana,* That an act providing for a more uniform mode of doing township business in the several counties therein named, approved February 17th, 1838, be, and the same is hereby repealed, so far as it relates to Madison county.

This act to be in force from and after its passage.

## CHAPTER CXXIV.

An act to repeal an act entitled an act providing for the clearing out of Pride's creek, in Pike county, approved January 21, 1839.

[APPROVED FEBRUARY 13, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That an act entitled an act providing for the clearing out of Pride's creek in Pike county, approved January 31st, 1839, be and the same is hereby repealed.

**SEC. 2.** This act to be in force from and after its passage.

## CHAPTER CXXV.

An act authorizing Daniel M. Ingersoll and James Jessup to build a mill dam across Eel river in Green county.

[APPROVED FEBRUARY 17, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That Daniel M. Ingersoll and James Jessup are hereby authorized to build a dam across Eel river, in section sixteen, township eight, north of range five west.

**SEC. 2.** Said dam shall not be more than five feet high, and shall be built with such slopes as not to endanger the navigation of said stream.

**SEC. 3.** The legislature reserves the right to repeal this act at any time.

This act to be in force from and after its passage.

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[APPROVED DECEMBER 19, 1839.]

## CHAPTER CXXVI.

An act to authorize Thomas Goudy, senior, to build a mill dam across Eel river in Wabash county.

[APPROVED DECEMBER 19, 1839.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That Thomas Goudy, senior, of Miami county in the state of Indiana, be, and he is hereby authorized to build a mill dam across Eel river in the state of Indiana aforesaid, opposite to fractional section number thirty-five, in township number twenty-nine, north of range five east.

**SEC. 2.** The said Thomas Goudy, senior, shall be entitled to all the benefits of the writ of "ad quod damnum," to condemn the lands necessary for his use on the opposite bank of said Eel river, where he may wish to build his said mill dam, or elsewhere, to promote the completion of the same.

**SEC. 3.** Said Thomas Goudy, senior, shall be required to construct in some suitable part of his said mill dam, a slope at least twenty feet wide to admit the free passage of rafts or flat boats, and such other water-crafts as may hereafter descend said river: *Provided*, The state reserves the right to abate said dam at any time.

**SEC. 4.** This act to take effect, and be in force from and after its publication in the Peru Gazette, a public newspaper published at Peru in the county of Miami, and state of Indiana aforesaid.

## CHAPTER CXXVII.

An act to provide for the election of a Justice of the Peace in the town of Jacksonville in the county of Fountain.

[APPROVED, FEBRUARY 13, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the board doing county business for Fountain county, be, and they are hereby authorized to order one justice of the peace to be elected in the town of Jacksonville in said county by the qualified voters of the township of Jackson, in addition to the number of justices now appointed to said township in the same manner they might have done or could do if said town were incorporated, any law to the contrary in force notwithstanding. Said justice so to be elected shall reside in the town of Jacksonville in said township and county, and to vacate his office whenever he shall remove from said town.

**SEC. 2.** The said board of commissioners shall fix the time and place of holding said election, and in all respects the said person shall be governed by the laws now in force regulating the election of justices of the peace.

This act to be in force from and after its passage.

[APPROVED FEBRUARY 10, 1840.]

**CHAPTER CXXVIII.**  
An act to regulate the jurisdiction of Justices of the Peace in Boon county.

[APPROVED FEBRUARY 10, 1840.]

**Be it enacted by the General Assembly of the State of Indiana,** That the jurisdiction of justices of the peace in the county of Boon shall be governed and regulated by the provisions of the one hundred and third and one hundred and fourth sections of the act entitled an act regulating the duties and jurisdiction of justices of the peace, approved February 17, 1838.

This act to be in force from and after its passage.

## CHAPTER CXXIX.

An act to amend an act to legalize the acts of the Board of Justices of the Peace in Crawford county, approved February 6th, 1836.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That hereafter six justices of the peace in Crawford county may be competent to hold terms for doing county business in said county: Provided, They reside in six different townships in said county, except at the May and November terms, at which terms the same number as required heretofore shall be necessary.

**SEC. 2.** This act shall be in force from and after its passage.

## CHAPTER CXXX.

An act to provide for the election of a Justice of the Peace and Constable in the town of White Hall in Owen county.

[APPROVED FEBRUARY 13, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the board doing county business for the county of Owen be, and they are hereby authorized at the March term of said board or at any term of said board thereafter, to order one justice of the peace and one constable to be elected in the town of White Hall in Clay township, in said county, in addition to the two justices of the peace, and the constables already appointed in said township, in the same manner they might have done or could do if said town were incorporated: Provided, said board shall be of opinion that such additional justice of the peace and constable would be necessary.

**SEC. 2.** The said justice so elected shall keep his office in the town of White Hall, any law in force to the contrary notwithstanding.

This act to be in force from any after its publication in the Indiana Democrat.

## CHAPTER CXXXI.

An act to authorize the election of an additional justice of the peace in Wayne township, in Marion county.

[APPROVED FEBRUARY 7, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the qualified voters of Wayne township, in Marion county, are hereby authorized to elect an additional justice of the peace for said township, who shall reside and keep his office in the town of Bridgeport, and on removal therefrom, shall vacate his office.

**SEC. 2.** The board of commissioners of said county shall, at their first meeting after this bill becomes a law, order such election, or the clerk in vacation; such justice of the peace shall be in all respects governed by the laws regulating the jurisdiction and duties of other justices of the peace.

**SEC. 3.** It shall be the duty of Martin Martindale, a justice of the peace in said township, to deliver over to said justice of the peace for the town of Bridgeport, upon his demand, all the official papers which belonged to the office of Allen Jennings, late a justice of the peace in said township.

This act to be in force from and after its passage.

## CHAPTER CXXXII.

An act regulating the jurisdiction of justices of the peace in Jackson county.

[APPROVED JANUARY 25, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That no person who is a householder shall be bound to answer any summons or other civil process issued by any justice of the peace in the county of Jackson, in any other township than the one in which the defendant actually resides, unless there should be no justice in said township who can legally issue such summons or other process, then and in that case, it shall be lawful to commence in the next nearest township: Provided however, That each party shall have the right to change the venue as heretofore.

**SEC. 2.** This act to be in force from and after its publication.

### CHAPTER CXXXIII.

An act to provide for the election of a justice of the peace in the town of Manhattan, in Putnam county.

[APPROVED DECEMBER 19, 1839.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the board of commissioners of Putnam county be, and they are hereby authorized at their next session following the passage of this act, to order one justice of the peace to be elected in the town of Manhattan, Washington township in said county, in addition to the number of justices of the peace already apportioned to said township.

**SEC. 2.** The said board of commissioners shall fix the time of holding said election, and in all other respects, the said election shall be governed by the law now in force regulating the election of justices of the peace.

This act shall be in force from and after its passage.

### CHAPTER CXXXIV.

An act to provide for the election of a justice of the peace in the town of Owensesville in Gibson county.

[APPROVED FEBRUARY 13, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the board of commissioners of Gibson county shall, if they deem it expedient, at the next March term of said board, or any term thereafter, order the election of an additional justice of the peace in Montgomery township in said county; and such justice shall be elected and reside in the town of Owensesville, in the said township of Montgomery, and a removal therefrom shall be a vacation of his office.

**SEC. 2.** Said election shall be conducted in all respects by the laws now in force regulating county and township elections.

This act to be in force from and after its passage.

### CHAPTER CXXXV.

An act to authorize the election of one additional justice of the peace in the town of Pittsburgh, in Carroll county.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the qualified voters of the township of Tippecanoe in Carroll county, be, and they are hereby authorized to elect, on the day fixed by law for holding township elections for the year 1840, or at any other time that may be fixed by the board of county commissioners of said county, one additional justice of the peace for said township, who shall reside in the town of Pittsburgh, and shall vacate his office on removing from said town.

**SEC. 2.** Said election, and said justice of the peace when elected, shall in every respect, consistent with this act, be governed by existing laws in relation to the electing, commissioning, and duties of justices of the peace in this state.

This act to take effect and be in force from and after its passage.

### CHAPTER CXXXVI.

An act to provide for the election of an additional justice of the peace and constable for Morgan township in the county of Harrison.

[APPROVED, FEBRUARY 15, 1840.]

**Be it enacted by the General Assembly of the State of Indiana,** That there shall be one additional justice of the peace and constable elected by the qualified voters of Morgan township in Harrison county, who shall reside at or near the town of Palmyra in said township, and shall be commissioned and governed in every respect as other justices of the peace and constables in this state.

This act to take effect and be in force from and after its passage.

## CHAPTER CXXXVII.

An act to provide for an election of a justice of the peace in the town of Alexander, in Madison county.

[APPROVED, FEBRUARY 22, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the qualified voters of Monroe township, Madison county be, and they are hereby authorized to meet at some suitable place in the town of Alexander, Monroe township, Madison county, on the first Monday of April, A. D. 1840, for the purpose of electing a justice of the peace whose duty it shall be to keep his office and reside in the town of Alexander in said township and county aforesaid, and shall do and perform all acts and things that other justices of the peace are now, by the laws of the state, authorized to do and perform.

**SEC. 2.** That said election for said justice shall be conducted according to the law regulating general elections in the state.

This act to be in force from and after its passage.

## CHAPTER CXXXVIII.

An act to provide for the election of a justice of the peace in the town of Bainbridge, in Putnam county.

[APPROVED, FEBRUARY 7, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the board doing county business in the county of Putnam be, and they are hereby authorized to order one justice of the peace to be elected in the town of Bainbridge in said county, by the qualified voters of the township in which the town of Bainbridge is situated, in addition to the number of justices now appointed to said township in the same manner as might have been done if said town was incorporated, any law in force to the contrary notwithstanding.

**SEC. 2.** This act to take effect and be in force from and after its passage.

## CHAPTER CXXXIX.

An act to regulate the jurisdiction of justices of the Peace in Green county.

[APPROVED, FEBRUARY 13, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That hereafter, no person who is a householder shall be bound to answer any summons, or other process issued by any justice of the peace in Green county in any civil suit, where there shall be no justice of the peace in said township who can legally issue such summons or other process, in which case it shall be lawful to commence such suit in the next nearest township: Provided however, that no part of this act shall be so construed as to prevent the collection of debts where the same may be specified in writing, and provided further, that either party shall have the right to change the venue as heretofore.

This act to be in force and take effect from and after its publication.

## CHAPTER CXL.

An act relative to the jurisdiction of Justices of the peace, in Allen county.

[APPROVED FEBRUARY 12, 1840.]

**Be it enacted by the General Assembly of the State of Indiana,** That the jurisdiction of justices of the peace in the county of Allen, shall hereafter be regulated and governed by the 103d section of an act entitled an act regulating the jurisdiction and duties of justices of the peace, approved February 17, 1838, any law to the contrary notwithstanding.

This act to be in force from and after its publication.

## CHAPTER CXLI.

An act to provide for the election of a justice of the peace in the town of Macksville, in Vigo county.

[APPROVED, FEBRUARY 7, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the board of commissioners of Vigo county be, and they are hereby authorized at their next term following the passage of this act,

to order one justice of the peace to be elected in the town of Mackville in Sugar creek township in said county, in addition to the two justices of the peace already apportioned to said township.

**SEC. 2.** The said board of commissioners shall fix the time of holding said election, and in all other respects, the said election shall be governed by the law now in force regulating the election of justices of the peace.

This act to take effect and be in force from and after its passage.

#### CHAPTER CXLII.

An act to change the name of the town of Wilmington in Rush county.

[APPROVED FEBRUARY 7, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the name of the town of Wilmington in the county of Rush be, and the same is hereby changed to the name of Manilla. And the said town of Wilmington shall hereafter be known and called in all public transactions, by the aforesaid name of Manilla: Provided, however, that the change shall in no way affect any contract heretofore made, or any public or private rights.

This act to take effect and be in force from and after its passage.

#### CHAPTER CXLIII.

An act to legalize the proceedings of the board doing county business in Huntingdon county.

[APPROVED FEBRUARY 24, 1840.]

*Be it enacted by the General Assembly of the state of Indiana,* That the proceedings of the board doing county business in the county of Huntington, at their November term, in the year 1839, relative to the appointing of constables for said county is hereby legalized, and hereafter shall be considered legal in every respect.

This act to be in force from and after its passage.

#### CHAPTER CXLIV.

An act to vacate the town of Voltonville.

[APPROVED, FEBRUARY 7, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the town of Voltonville in White county be, and the same is hereby vacated.

This act to be in force from and after its being filed in the office of the clerk of the circuit court of White county.

#### CHAPTER CXLV.

An act supplemental to an act passed at the present session of the General Assembly, entitled an act to change the name of Harvey Slocum of Jefferson county.

[APPROVED, FEBRUARY 24, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the bill above mentioned, be so amended, as to be in force from and after its passage.

#### CHAPTER CXLVI.

An act to authorize Absalom Fraseur to sell and convey a part of the public square, in the town of New Washington.

[APPROVED FEBRUARY 13, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That Absalom Fraseur of Clark county be, and he is hereby appointed a commissioner to sell and convey a certain portion of the public square in the town of New Washington in said county, as hereafter provided.

**SEC. 2.** It shall be lawful for said commissioner to lay off so much of said public ground as has been appropriated by the citizens of New Washington, to the creation of a seminary in said town, into building lots of such size as he may deem proper, and shall proceed to offer the same at public sale to the highest bidder, under such regulations, and

upon such credits, as he may consider most conducive to the interest of said seminary.

**SEC. 3.** Said commissioner shall be empowered to collect and receive the proceeds of said public ground, as well as all donations, demises, and bequests, which shall be, or have heretofore been made for the building and endowing said seminary, and shall account for, and pay over the same to the order of the trustees of the New Washington seminary.

**SEC. 4.** Said commissioner shall give bond and security in the sum of two thousand dollars, payable to the trustees of the New Washington seminary, conditioned for the faithful performance of the duties assigned him by this act.

**SEC. 5.** Said commissioner is hereby vested with power to convey and transfer all the right, title, and interest of the citizens of New Washington, in and to said public ground, and said transfer shall be deemed in law a valid conveyance of such title, and shall receive such sum for his services as the said trustees of said seminary shall consider a fair compensation; therefore,

**SEC. 6.** Should said commissioner die, resign, remove from the county or refuse to serve, it shall be lawful for the trustees aforesaid, to appoint a successor, who shall give the same bond, be vested with the same powers, and receive the same compensation as the commissioner appointed by this act.

## CHAPTER CXLVII.

An act regulating the jurisdiction of justices of the peace in Grant county.

[APPROVED, FEBRUARY 13, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That hereafter no person who is a householder shall be bound to answer to any summons or other process issued by any township other than the one in which said defendant actually resides, unless there shall be no justice in said township who can legally issue such summons or such writ in the next nearest township: *Provided however,* That either party shall have the right to change the venue as heretofore.

This act to be in force from and after its passage.

## CHAPTER CXLVIII.

An act for the relief of those likely to suffer by the destruction by fire of the books and papers in relation to the Surplus Revenue in Carroll county, and to secure its final payment.

[APPROVED, FEBRUARY 24, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the agent of the surplus for said county, be, and he is hereby authorized to renew the books and papers pertaining to the office of such agent, so far as the same may have been destroyed as aforesaid, so as to show the true condition of said fund.

**SEC. 2.** All borrowers of said surplus revenue in said county of Carroll, shall, on renewing their notes, bonds, or other obligations, on or before the first day of May next, with security to the satisfaction of such agent, shall be at liberty to retain the same for twelve months from said first day of May, by paying interest in advance as required by law: *Provided,* That nothing in this section shall be so construed as to prevent the commencement of a suit or suits immediately for the collection of any such loan or loans, where the safety of the same may require it, and in all such cases as the last named, it is hereby made the duty of such agent, to institute suit or suits in the proper court without unnecessary delay, and for the additional duties imposed on him by this act, said agent shall be allowed a reasonable compensation by the board of county commissioners of said county.

This act to be in force from and after its passage.

## CHAPTER CXLIX.

An act to repeal a part of an act entitled an act concerning Knox county.

[APPROVED FEBRUARY 13, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the sixth, seventh, and eighth sections of an act entitled an act concerning Knox county, approved January the twenty-eighth, eighteen hundred and thirty-nine, be, and the same is hereby repealed.

This act to be in force from and after its passage.

## CHAPTER CL.

An act to confirm the title made by Harriet M. Williams and Thomas H. Williams, minors, to certain real estate therein designated.

[APPROVED FEBRUARY 18, 1840.]

Whereas, Harriett B. Williams, widow of Thomas Williams, deceased, Joseph Ruths and Julia Ann B. his wife, Harriet M. Williams and Thomas H. Williams, all of the city of Philadelphia in the state of Pennsylvania, did by their deed, made and executed the 20th day of June, in the year of our Lord, one thousand eight hundred and thirty nine, grant, bargain, sell, alien, release, and confirm unto Lucius H. Scott, of Terre Haute, Indiana, his heirs and assigns, for and in consideration of the sum of two hundred and fifty dollars to them in hand paid, the receipt of which is acknowledged in the said conveyance, all that certain tract or parcel of land, now in his possession, being the south east quarter of section number twenty-three, in township number 6, south of range number eleven west, in the state of Indiana, and all the right, title, interest, property, claim and demand whatsoever, which they the said parties first aforesaid or either of them has, have, or may or can have, in law or equity or otherwise, of, in or to the same; and whereas, Harriet M. and Thomas H. Williams, two of the above grantors, are under the age of twenty-one years; and whereas, all the above grantors including the said minors, have united in a petition to this legislature praying that a special act may be passed confirming the said title so conveyed to the said Lucius H. Scott, his heirs and assigns as fully to all intents and purposes as if all the aforesaid grantors were of lawful age, when the said deed of conveyance was so executed; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the title made to Lucius H. Scott of Terre Haute, Indiana, on the 20th day of June in the year of our Lord, 1839, by Harriet M. Williams and Thomas H. Williams, infant heirs of Thomas Williams, deceased, to the south east quarter of section number twenty-three, in township number six, south of range number eleven west, in the state of Indiana be, and the same is hereby confirmed to the said Scott, his heirs and assigns as fully to all intents and purposes in fee simple forever as if the said grantors had been of lawful age when the said title was made as aforesaid.

This act to take effect and be in force from and after its passage.

## CHAPTER CLI.

An act relative to the Probate Court of Bartholomew county.

[APPROVED FEBRUARY 13, 1840.]

*Be it enacted by the General Assembly of the State of Indiana,* That the probate court of Bartholomew county shall at each term hereafter be held nine days, if the business require it.

This act to be in force from and after its passage.

## CHAPTER CLII.

An act to change the name of Germantown in Floyd county to that of Galena.

[APPROVED JANUARY 22, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the name of Germantown in Floyd county, be, and the same is hereby changed to that of Galena.

SEC. 2. That the proprietor of said town be, and he is hereby authorized to cause said name to be entered on the recorded platt of said town, as also on the original by the recorder of the county of Floyd, and attested by such recorder, which when done shall remain unalterable, unless by the express will of a majority of the whole number of inhabitants thereof: *Provided, however,* that no rights shall be affected by the name of said town, as provided for in this act.

This act to take effect and be in force from and after its passage.

## CHAPTER CLIII.

An act to vacate Georgetown in Hendricks county.

[APPROVED FEBRUARY 24, 1840.]

*Be it enacted by the General Assembly of the State of Indiana,* That Georgetown in Hendricks county be, and the same is hereby vacated; and that this act take effect and be in force from and after its passage.

## CHAPTER CLIV.

An act to authorize John Ashley to build a mill dam across the Maumee River.

[APPROVED FEBRUARY 24, 1840.]

*Be it enacted by the General Assembly of the State of Indiana,* That John Ashley of the county of Allen be, and he is hereby authorized to build a mill dam across the Maumee river at the place where he is now erecting his mills: *Provided*, That said Ashley shall be governed in all respects by the provisions of an act authorizing John Manning, sen. to build a mill dam across the Little St. Joseph river, approved January 29th, 1839.

This act to be in force from and after its passage.

## CHAPTER CLV.

An act to fix the times of holding Probate Courts in Marion County.

[APPROVED FEBRUARY 13, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the probate courts of Marion county shall hereafter be held on the days and times as follows, to-wit: on the first Mondays in January and March, fourth Monday of May, second Monday of August, first Monday of October, and fourth Monday of November in each year, and shall sit six days at each session, if the business require it.

This act to be in force from and after its passage.

## CHAPTER CLVI.

An act in relation to lands within the chartered limits of the city of New Albany, and solely used for farming and wood land purposes.

[APPROVED, FEBRUARY 24, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That so much of the lands that are situated within the chartered limits

of the city of New-Albany as are used solely for farming purposes or retained for wood lands, and through and along which no streets or alleys of said city run or are located, and which have not been laid out as lots, or out lots or improved or used in any manner as city property, shall be and remain free from assessment or taxation for city purposes, shall not pay more than one half the per centum as taxes are paid on other property in said city, until the same may be laid out into lots or out lots of said city as aforesaid, and recorded or offered for sale: *Provided, however,* That all land adjoining to, or situated within one hundred and fifty feet of any of the streets or alleys of said city, (the usual depth of lots) or that may be hereafter thus situated by reason of new streets or alleys being laid out or old ones extended thereto, shall not be exempt from city taxation or assessment as aforesaid, but the same shall remain subject thereto, with all tenements and hereditaments and property thereon, as is provided for in the charter of said city.

**SEC. 3.** So much of the laws now in force as contravenes the provisions of this act, be, and the same is hereby repealed.

This act to take effect and be in force from and after its passage.

## CHAPTER CLVII.

An act to provide for the election of a Justice of the Peace and Constable in Canton in Washington County.

[APPROVED FEBRUARY 7, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the board doing county business in the county of Washington be, and are hereby authorized to order an election of one additional justice of the peace, and one additional constable for the township of Washington in said county.

**SEC. 2.** Said justice of the peace shall reside and keep his office in the town of Canton, and his office shall be vacated on removing from said town.

**SEC. 3.** The board doing county business shall fix the time of holding said election, which shall be governed by the laws regulating the election of justices of the peace.

This act to be in force from and after its passage.

## CHAPTER CLVIII.

An act to authorize the election of an additional Justice of the Peace in the township of Orange, Noble county.

[APPROVED FEBRUARY 15, 1840.]

*Be it enacted by the General Assembly of the State of Indiana, That the lawful voters of the township of Orange in Noble county, be, and they are hereby authorized, at their April elections 1840, to elect an additional justice of the peace in said township.*

This act to take effect and be in force from and after its passage.

## CHAPTER CLIX.

An act to authorize a portion of the citizens of township fifteen, north of range eight east, in Hancock county, to build a school house on section thirty in said county.

[APPROVED, FEBRUARY 24, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana, That a portion of the citizens of township fifteen, north of range eight east, in Hancock county, are authorized to build a school house on section thirty in said township, and shall be entitled to draw on the school funds of the township in proportion to the number of children in the district.*

**SEC. 2.** *The provisions of this act shall be confined to the school district including the above named section.*

**SEC. 3.** *The citizens of said district wishing to avail themselves of the provisions of this act, shall be governed in all respects by the existing laws of the state, except that five of their number shall be sufficient to govern their action.*

This act to be in force from and after its passage.

## CHAPTER CLX.

An act to change the time of holding Commissioners' Courts in the county of Floyd.

[APPROVED FEBRUARY 15, 1840.]

*Be it enacted by the General Assembly of the State of Indiana, That hereafter the commissioners' courts of the county of Floyd shall be held on the third Mondays in January, March, May, September, and November, any law to the contrary notwithstanding.*

This act to be in force from and after its passage.

## CHAPTER CLXI.

An act to give the Board of County Commissioners of Spencer county jurisdiction over a certain portion of Warrick county.

[APPROVED FEBRUARY 22, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana, That the board of commissioners of the county of Spencer be, and they are hereby authorized and empowered to clear out, open, and keep in repair, all that portion of the state road leading from Rockport in Spencer county, by the way of Jasper to Indianapolis, which lies within the limits of Warrick county; that full and ample jurisdiction be and is hereby conferred on the board of county commissioners of the said county of Spencer, to carry into effect the powers hereby given. Provided, however, That the said part of road located within the limits of Warrick county as aforesaid, shall be opened and kept in repair at the sole expense of Spencer county.*

**SEC. 2.** *This act to take effect and be in force from and after its passage.*

## CHAPTER CLXII.

An act to legalize the recording of the town plat of Marion.

[APPROVED FEBRUARY 22, 1840.]

Whereas, the person or persons, or their legal representatives, who laid off the town of Marion in Grant county, neglected to record the

plat of said town previous to the sale of lots in said town as the law directs: Therefore,

*Be it enacted by the General Assembly of the State of Indiana, That the subsequent recording of the town plat shall be and answer every purpose in law and equity, as though said plat had been recorded according to the provisions of the act of the legislature, approved January 21st, 1818.*

This act to be in force from and after its passage.

### CHAPTER CLXIII.

An act declaring certain names therein mentioned misprints.

[APPROVED FEBRUARY 18, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana, That the name of Hazelwood, printed in the first section of an act to amend an act to incorporate the town of Paoli, approved February 14, 1839, be, and the same is hereby declared a misprint, that the name should be Josiah Hazlewood.*

**SEC. 2.** *Be it further enacted, That the name of Jacob Sharley and the words Spack's ferry as printed in the fifth section of an act to establish a certain state road therein named and for other purposes, approved February 18, 1839, be, and they are hereby declared misprints, and the name should be Jacob Shurley and the name of the ferry should be Spark's ferry.*

**SEC. 3.** *That in the act to incorporate the Hendricks county Seminary, approved February 6, 1837, in which the name of Samuel A. Vorrike is printed, should have been Samuel A. Verbrike, and shall hereafter be read Samuel A. Verbrike; and the name of Henry M. Voreas therein is also a misprint and shall be read Henry M. Voris.*

**SEC. 4.** *That the name of Jacob Reeses as printed in the sixty-third section of an act entitled an act to establish a certain state road therein named and for other purposes, approved February 18, 1839, is declared to be a misprint, and should have been Jacob Rice's and shall be considered and read Jacob Rice's.*

**SEC. 5.** *This act to take effect and be in force from and after its passage.*

### CHAPTER CLXIV.

An act in relation to such writs, &c., as may have issued or shall issue from the clerks of the circuit courts in Laporte, Porter and Lake counties.

[APPROVED FEBRUARY 18, 1840.]

Whereas, doubts have arisen in the counties above named, as to the times of holding the courts therein; and whereas, writs, &c. may have issued returnable at a time different from that provided by law; therefore,

*Be it enacted by the General Assembly of the State of Indiana, That all writs, venires, subpoenas, rules, orders, &c. which may have issued or shall issue from the clerks of the said courts, returnable at times different from the time of holding said courts, as provided in the act entitled an act for the formation of the eighth and ninth judicial circuits, and fixing the time of holding courts therein, approved February 19th, 1838, shall be, and are hereby declared returnable at the times provided for holding the courts in said counties, by the last mentioned act.*

This act to be in force from and after its passage; and the secretary of state is hereby required to forward immediately a copy of the same to the clerks of said courts.

### CHAPTER CLXV.

An act defining the duty of the county board of Fayette county in a certain case therein named.

[APPROVED FEBRUARY 24, 1840.]

*Be it enacted by the General Assembly of the State of Indiana, That hereafter it shall not be lawful for the court of county commissioners of Fayette county to authorize the issue of any license to retail spirituous or strong liquors within the town of Connersville, unless it be upon petition of a majority of the freeholders within said town.*

This act to be in force from and after its passage.

## CHAPTER CLXVI.

An act to enlarge the powers of the probate courts of Marion county in a certain case therein.

[APPROVED FEBRUARY 17, 1840.]

*Be it enacted by the General Assembly of the State of Indiana,* That the probate courts of Marion county are hereby authorized and empowered, upon the petition of the minor heirs of Thomas McOuat, late of Marion county, deceased, by their guardian, to cause the real estate of said Thomas McOuat, deceased, or so much thereof as said courts may deem expedient to be sold, and the proceeds thereof to be loaned at interest for the benefit of said minor heirs, said court taking bond with security sufficient to secure to said minor heirs the amount of the purchase money and accruing interest.

SEC. 2. That said bond shall be made payable to the state of Indiana, and shall be for the benefit of all or either of said heirs, who may bring suit thereon in the name of said state, for his, her or their benefit upon a breach of the condition thereof, and the interest on said purchase money beyond what shall be necessary for the support and education of said minor heirs, shall annually, or so often as the same can be received or collected, be added to and loaned as principal.

This act to be in force from and after its passage.

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## CHAPTER CLXVII.

An act declarling a misprint and for other purposes.

[APPROVED, FEBRUARY 15, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the name of John Spencer in the third section of an act to incorporate the Indiana Manufacturing Company, approved February 17th, 1838, be, and the same is hereby declared a misprint, and that the name of Isaac Spencer be inserted in its stead.

SEC. 2. That the thirteenth section of said act be, and the same is hereby repealed.

This act to take effect and be in force from and after its passage.

## CHAPTER CLXVIII.

An act to revive an act entitled an act to amend an act for the benefit of persons who are likely to suffer by the destruction of the records of Dearborn county, which were consumed in the court house in Lawrenceburgh, on the 6th of March 1826, approved, January 11, 1827.

[APPROVED, FEBRUARY 13, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the above entitled act be, and the same is hereby revived, to continue in force for two years from and after the passage of this act.

SEC. 2. *And be it further enacted,* That Thomas Palmer, recorder of the county of Dearborn be, and he is hereby constituted a commissioner with full power and authority to take and record all evidence at his office, and do and perform all the duties conferred upon the commissioners under the act herein revived and amended, and that all his acts done and performed under the provisions of said act shall be as binding in all things as if the same had been done and performed by the board of commissioners constituted by said act, and that the said act when so revived, shall in all things be in full force and effect.

SEC. 3. This act shall take effect and be in force from and after its passage.

## CHAPTER CLXIX.

An act providing for the summoning and empanneling jurors in the county of Delaware.

[APPROVED FEBRUARY 15, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the board doing county business in the county of Delaware, to cause to be selected from the list of taxable persons in said county, the names of fifteen grand jurors, and twenty-four petit jurors; twelve of said petit jurors shall be elected for the first week, and twelve for the second week of each term.

SEC. 2. The board doing county business in said county, shall be governed in all respects as heretofore, by the act to which this is an amendment, except as provided for in the first section of this act.

SEC. 3. This act to take effect and be in force from and after the first day of April next.

## CHAPTER CLXX.

An act relative to the Probate Court in Clark county, [APPROVED FEBRUARY 24, 1840.]

*Be it enacted by the General Assembly of the State of Indiana, That hereafter, when the terms of the circuit and probate courts in the county of Clark shall interfere with each other, under the existing laws regulating the terms thereof, the term of the probate court of said county shall commence two weeks prior to that of the circuit court.*

This act to be in force from and after its passage.

## CHAPTER CLXXI.

An act to postpone the February term of the probate court of Parke county, in the year 1840.

[APPROVED FEBRUARY 7, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That the February term of the Parke county probate court, for the year 1840 be, and the same is hereby postponed until the fourth Monday of March, 1840. And at said March term may sit nine days, if the business thereof require it.*

*SEC. 2. All process heretofore issued out of said court, or which may hereafter be issued before the taking effect of this act, returnable at said February term, shall be taken to be returnable at said March term.*

*SEC. 3. This act to be in force from and after the filing of a copy of the same in the office of the clerk of the Parke probate court.*

## CHAPTER CLXXII.

An act to change the name of Levina Fallis.

[APPROVED, JANUARY 18, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That the name of Levina Fallis, of the county of Hamilton, shall be, and the same is hereby changed to Levina Conner, and by the said last mentioned name, she shall have full power to contract and be con-*

tracted with, sue and be sued, and to do all other acts which she might or could do by the former name.

*SEC. 2. Nothing in this act shall be so construed, as to affect any contract made or entered into with the said Levina previous to the passage of this act.*

This act to take effect and be in force from and after its passage.

## CHAPTER CLXXIII.

An act to amend an act entitled an act for attaching Carroll county to the eighth judicial circuit, and for other purposes, approved Feb. 7th, 1840.

[APPROVED, FEBRUARY 24, 1840.]

*Be it enacted by the General Assembly of the State of Indiana, That the special term of Allen circuit [court] provided to be held by section 7th of the act to which this is an amendment be, and the same is hereby so deferred, as to commence on the first Monday of July next.*

This act to be in force from and after its passage.

## CHAPTER CLXXIV.

An act to repeal a certain act therein named.

[APPROVED FEBRUARY 24, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That the act of the legislature of 1839, to authorize Thomas Goudy, of Miami county, to build a mill dam across Eel river, in Wabash county be, and the same is hereby repealed.*

This act to be in force from and after its passage.

## CHAPTER CLXXV.

An act to authorize the circuit court of the county of Cass to change the venue in a certain case therein named.

[APPROVED FEBRUARY 17, 1840.]

Whereas, it has been represented to the General Assembly of the state of Indiana, that in the year 1836, Israel Johnstone and Job B. Eldridge, administrators, and Elizabeth Dickerson, administratrix of the estate of William Dickerson, deceased, filed their certain bill in chancery in the Cass circuit court against Joseph P. Berry of said county of Cass, surviving partner of the firm, composed of the said William Dickerson, deceased, and the said Joseph P. Berry, praying the said court to enjoin the said Joseph P. Berry from collecting the debts or disposing of the property of said firm: and whereas, it has been further represented, that the said court ordered an injunction in accordance with the prayer of said complainants, and appointed Nicholas D. Grover receiver of the effects of said firm, into whose hands said effects have been delivered; and whereas it has been farther represented that the said Joseph P. Berry has answered the said bill, denying the equity thereof, and has taken depositions to sustain the same, and that said suit is still undecided, and owing to the amount of business in said Cass circuit court, will not in all probability be determined during the present year; and whereas, it has been further represented that the said Joseph P. Berry has paid off the debts owing by the said firm, and has been unable to obtain any of the effects thereof to reimburse or indemnify himself, and has thereby sustained considerable loss: Therefore,

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the said Joseph P. Berry be, and he is hereby authorized to take a change of venue in the above case from the said circuit court of the county of Cass, to the circuit court of the county of Miami, on the conditions and in the manner hereinafter prescribed.

**SEC. 2.** It shall be the duty of the clerk of the said circuit court of the county of Cass at any time after a legally authenticated copy of this act shall have been filed in his office, on the filing in his office by the said Joseph P. Berry of his petition setting forth the above facts, verified by his affidavit, forthwith to transmit the papers in the above case to the clerk of the circuit court of the county of Miami. The said suit shall stand in the Miami circuit court after said change of venue in precisely the same situation as it stood in the Cass circuit court at the time such change of venue was taken, and shall be tried and determined accordingly.

**SEC. 3.** In taking said change of venue, the parties to the said suit above mentioned, the said circuit courts and the clerks thereof shall be governed by the provisions of an act prescribing the mode of

changing the venue, approved January 28th, 1824, except so far as the same are altered or annulled by this act.

**SEC. 5.** It shall be the duty of the secretary of state to forward certified copies of this act to the clerks of the courts in Cass and Miami counties so soon as the same shall have become a law.

**SEC. 4.** This act to be in force from and after its passage, and to be taken and construed as a public act.

## CHAPTER CLXXVI.

An act to vacate the town of Bath.

[APPROVED FEBRUARY 10, 1840.]

*Be it enacted by the General Assembly of the State of Indiana, That the town of Bath in the county of Union, be, and the same is hereby vacated.*

This act to be in force from and after its passage.

## CHAPTER CLXXVII.

An act declaring a part of Salt creek a public highway.

[APPROVED FEBRUARY 13, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That Salt creek from David's mill in Brown county to the north line of Lawrence county, be, and the same is hereby declared a public highway: Provided, however, that nothing herein contained shall be so construed as to prevent any individual or company from erecting mill dams at any point or points on said creek.

### CHAPTER CLXXVIII.

An act to authorize John T. Wheeler, a minor, to sell certain real estate therein named.

[APPROVED FEBRUARY 13, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That John T. Wheeler of the county of Clay and state of Indiana, be, and he is hereby authorized and empowered to sell and transfer all that part of the east half of the north east quarter of section thirteen, in township eleven, north of range number six west, that is situated on the west side of Eel river, and that any deed of conveyance so made and acknowledged according to the laws of the state of Indiana, by the said John T. Wheeler, a minor, shall be as good and valid in law, to all intents and purposes, as if the said John T. Wheeler, a minor as aforesaid, were of lawful age, and that all acts and doings of his, in and about the sale and making a title to said land, shall be, and they are hereby declared to be valid and good in law.

This act to be in force from and after its passage.

### CHAPTER CLXXIX.

An act authorizing the Vanderburgh Lyceum to sell or donate, transfer and convey real estate.

[APPROVED FEBRUARY 7, 1840.]

Whereas, doubts have arisen whether Lyceums incorporated under the provisions of an act to authorize the incorporation of Lyceums, [approved] Jan. 26, 1832, have power to sell real estate.

**SEC. 1.** *Be it therefore enacted by the General Assembly of the State of Indiana,* That whenever a majority of the Vanderburgh Lyceum may wish to sell or donate any real estate that does belong to said Lyceum, they shall be, and are hereby authorized so to do.

**SEC. 2.** That previous to transferring any real estate, that said Lyceum may wish to sell or donate, it shall be the duty of said Lyceum to express that wish by a resolution, which resolution shall be spread at full length upon the records of said Lyceum, authorizing the president of said Lyceum, to make a deed to the person or persons, body corporate or politic to whom said real estate may be sold or donated, a certified copy of which resolution shall be recorded in the recorder's office of Vanderburgh county.

**SEC. 3.** This act to be in force from and after its publication in the Evansville Journal.

### CHAPTER CLXXX.

An act legalizing the sale of certain school lands in Cass county.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the sale of the sixteenth or school section of township twenty-eight, range two east, situate and being in the county of Cass, and the same is hereby legalized, and all certificates or other evidences of title held under said sale are declared to be valid and good in law.

This act to be in force from and after its passage.

### CHAPTER CLXXXI.

An act amendatory to an act entitled an act incorporating congressional townships, and providing for public schools therein, approved February 17th, 1838.

[APPROVED, FEBRUARY 18, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That all the funds now constituting the fund for common schools in the county of Vanderburgh, both principal and interest now on hand, and also the interest herefore accrued on so much of the surplus revenue as belongs to said county of Vanderburgh shall hereafter constitute a permanent common school fund for said county.

**SEC. 2.** That from and after the passage of this act, the interest arising from said fund shall be applied in common to the support of common schools throughout the county, under the same regulations and restrictions as are now in force for the application of school funds in the several townships.

**SEC. 3.** That the 16th section of the 2d chapter of the act to which this is amendatory, so far as Vanderburgh county is concerned, be, and the same is hereby repealed.

This act to take effect and be in force from and after its passage.

## CHAPTER CLXXXII.

An act fixing the time of holding the Probate and Commissioners' courts in the county of Parke and for other purposes.

[APPROVED JANUARY 22, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the probate court of the county of Parke shall be holden on the third Monday in February, 1840, and thereafter on the second Monday in February, May, August, and November in each year, and shall sit six days at each term, if the business thereof require it.

**SEC. 2.** That the commissioners' court of said county shall be holden on the first Monday in January, second Monday in March, first Monday in May, second Monday in September, and first Monday in November in each year, and shall sit six days at each session, if the business thereof require it.

**SEC. 3.** That the board doing county business in said county shall at their March session annually, appoint all the township officers in and for said county, except constables, and make record of such appointments; a copy of which the clerk of said board shall make out for each person so appointed and deliver the same to the sheriff of said county who shall deliver said appointments, to each person so appointed as aforesaid, within thirty days after receiving the same as aforesaid: *Provided*, That in all cases where any person shall be appointed supervisors of the public highways or creeks in the county of Parke, and whose office shall become vacant by refusing to serve or otherwise, it shall be the duty of the clerk of the board doing county business in said county, in vacation of said courts, to appoint a supervisor to fill the place so vacant, and said person so appointed shall be governed in all respects by the law governing supervisors appointed by the board doing county business.

**SEC. 4.** That said township officers so appointed as aforesaid shall perform the same duties, take the same oath and be subject to the same penalties, in the same manner and to the same extent as those elected in pursuance of the general laws now in force in such cases.

**SEC. 5.** *And be it further enacted*, That each person, being appointed as aforesaid, shall serve for the term of one year from the date of his appointment and until his successor is appointed and qualified.

**SEC. 6.** *And be it further enacted*, That each supervisor, so appointed, shall on or before the first Monday in May annually, make out and deliver to the clerk of the board doing county business in said county, a list of the names of each person owning real estate in his district, and it shall be the duty of said clerk to annex the amount of road tax due on said real estate for the current year and return the same to the proper supervisor, and such supervisor shall collect and apply the same according to the law now in force on that subject.

**SEC. 7.** This act shall take effect and be in force from and after its passage.

## CHAPTER CLXXXIII.

An act authorizing the board doing county business in the county of Marion to vacate or make any alteration in the town of Bridgeport in Marion county.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the board doing county business for the county of Marion, are hereby authorized to make any alterations or vacations, that they may deem just and right, in the town of Bridgeport, in the county of Marion, upon application to them made by any freehold citizen of said town. The board in making the alterations or vacations herein allowed, and the person or persons making the application, shall severally be governed by the law authorizing the change or vacation of roads and highways, so far as the same are applicable.

This act to be in force from and after its passage.

## CHAPTER CLXXXIV.

An act to amend an act entitled an act authorizing the sale of certain school lands therein named and for other purposes, approved January 1, 1838.

[APPROVED, FEBRUARY 22, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That all the powers given to the Monroe county court, in the eighth section of the act to which this is amendatory, as relates to compensating the school commissioner for services, be, and the same is hereby transferred to the township trustees of township eight, north of range one west in said county, and that they be authorized to make such compensation annually to the said school commissioner for receiving, disbursing, and loaning the school funds of said township, as they may think just and right, to be paid out of the interest arising from the funds of said township.

This act to take effect and be in force from and after its passage.

## CHAPTER CLXXXV.

An act to allow further time to the Lawrenceburgh and Indianapolis Rail Road Company to settle up and close their affairs.

[APPROVED FEBRUARY 18, 1840.]

Whereas, it has been represented to this General Assembly that the Lawrenceburgh and Indianapolis rail road company have surrendered their charter to the state of Indiana, under the provisions of the joint resolution entitled a joint resolution of the General Assembly of the state of Indiana, relative to the Lawrenceburgh and Indianapolis rail road, approved February 15, 1839, and that the time allowed in and by said joint resolution, for said company to settle up and close their affairs, is not sufficient for that purpose; therefore,

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That one year further time is allowed to the Lawrenceburgh and Indianapolis rail road company, in which to settle up, adjust, and close their business, and for that purpose the corporate name and all other powers vested in said company, by the act of incorporation, be, and the same are hereby continued for the additional period aforesaid, notwithstanding the act of surrender aforesaid.

**SEC. 2.** That the powers and rights hereby conferred or continued in said company, are barely for the purpose of enabling them to sue and be sued, making sale and conveyance of their property, and settling up and closing their old business, and that at the end of said additional time, which will be on the 15th day of February, 1841, the powers and rights hereby conferred or continued are to cease and no longer continue.

## CHAPTER CLXXXVI.

An act to legalize the acts of the probate court of DeKalb county.

[APPROVED FEBRUARY 13, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the acts of the probate court, sheriff, and clerk of DeKalb county, be, and the same are hereby legalized.

This act to be in force from and after its passage.

## CHAPTER CLXXXVII.

An act to legalize the acts of the trustees of the town of Rockport in Spencer county and for other purposes.

[APPROVED JANUARY 25, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That all the acts done by the persons who have exercised the office of trustees of said town of Rockport, shall be valid to all intents and purposes, in the same manner they would have been, had all the requisitions of an act entitled an act to incorporate the town of Rockport, approved February 15, 1838, been complied with.

**SEC. 2.** That the said act of incorporation shall be extended so as to include the grave yard adjoining to or near said town, and the same shall hereafter be under the control and jurisdiction of the trustees of said town of Rockport.

This act to be in force from and after its passage.

## CHAPTER CLXXXVIII.

An act to amend an act regulating the mode of summoning and empanneling grand and petit jurors, approved February 17, 1838, as far as relates to the county of Owen.

[APPROVED FEBRUARY 10, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That so much of the aforesaid act as requires the board doing county business in and for the county of Owen, to select twenty-four petit jurors for the last week of the terms of the court in said county, be, and the same is hereby repealed.

**SEC. 2.** The twenty-four jurors selected for the first week of said court shall continue until dismissed by the court.

This act to take effect and be in force from and after its passage.

## CHAPTER CLXXXIX.

An act relative to the purchase of a fire engine in the town of Jeffersonville.

[APPROVED FEBRUARY 18, 1840.]

Whereas, it has been represented that a voluntary taxation upon the ad valorem system has been levied upon the property holders in the town of Jeffersonville for the purpose of raising money to purchase a fire engine, hose, &c.; and whereas, the state owns considerable property in said town; therefore,

*Be it enacted by the General Assembly of the State of Indiana,* That the treasurer of state be, and he is hereby authorized to pay to the corporation of Jeffersonville, for the purpose of paying in part, for a fire engine, hose, &c. the sum of two hundred and fifty dollars out of any moneys in the treasury not otherwise appropriated, so soon as satisfactory proof is presented to him that said corporation has purchased a good and sufficient engine, hose, &c.: *Provided*, That on the payment of said sum the state shall have an interest therein in proportion to the amount of this appropriation to the cost thereof.

This act to take effect and be in force from and after its passage.

## CHAPTER CXC.

An act to legalize and confirm the official acts of the several boards of trustees of the village of Mishawaka.

[APPROVED FEBRUARY 12, 1840.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That the official acts and proceedings of the several boards of trustees for the village of Mishawaka and state aforesaid, be, and the same are hereby legalized and confirmed as fully, and to all intents and purposes, as though there had been no defect, informality or irregularity in any of the several official acts and proceedings of the several boards of trustees of said village and incorporation of Mishawaka.

This act to take effect and be in force from and after its publication in the South Bend Free Press.

## CHAPTER CXCI.

An act to appropriate a part of the three per cent. fund of Ripley county and for other purposes.

[APPROVED, FEBRUARY 18, 1840.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That for the purpose of opening and repairing the state road leading from Napoleon by the farm of Isaac Levies to Versailles in Ripley county, Miles Mendinghall, John Ewing, John Hunter and George W. Hunter of said county be, and they are hereby authorized, and it is hereby made their duty to open books for the purpose of obtaining subscriptions in money or labor for the purpose of aiding in the opening and repairing said road.

*Sec. 2. And be it further enacted,* That so soon as the sum of two hundred and fifty dollars shall be obtained by subscription as aforesaid, it shall be the duty of the board of commissioners of Ripley county at their next session, after obtaining said subscription, to enter an order on their book appropriating three hundred dollars out of the three per cent. fund of said county, for the purpose of aiding to open and repair said road.

*Sec. 3. And be it further enacted,* That for the purpose of opening and repairing said road and applying the said funds aforesaid to the same, John Hunter of the town of Versailles be, and he is hereby appointed a commissioner to superintend the same, whose duty it shall be to take an oath before some person legally authorized to administer oaths for the faithful performance of his duty as such commissioner, and shall also execute a bond payable to the state of Indiana, in such amount as the commissioners of said county may direct, conditioned for the faithful performance of his duty as such commissioner, and for the faithful application of all money that may come into his hands by virtue of this act.

*Sec. 4. And be it further enacted,* That for the purpose of enabling the said John Hunter, commissioner as aforesaid, to collect and apply the aforesaid funds to the purposes aforesaid, the said books, containing the subscriptions, shall so soon as he shall have taken the oath and executed the bond by this act required, be placed into his hands; and should said subscriptions not be paid when the same becomes due and payable, the said commissioner is hereby authorized to collect the same in his own name, by action of debt before any justice of the peace in the county where such subscriber may reside at the time of commencing said suit as other debts are collected, and shall when collected apply the same to the purpose aforesaid.

*Sec. 5. It shall be the duty of the commissioner of the three per cent. fund of Ripley county to pay over to said commissioner such sums of the three per cent. fund as may from time to time come into his hands as such commissioner, not to exceed the said sum of three*

hundred dollars as aforesaid on producing to him the order of the county commissioner, or an attested copy of said order, issued by their clerk, and the said John Hunter, commissioner as aforesaid, shall be allowed for his services such compensation as the board of commissioners of said county, may direct to be paid out of the money in his hands as such commissioner.

SEC. 6. This act to take effect and be in force from and after its passage.

CHAPTER CXCII.

An act to legalize certain acts of the county commissioners of Cass county.

[APPROVED, FEBRUARY 12, 1840.]

Whereas, it has been represented to the General Assembly of the state of Indiana that the board of county commissioners of Cass county in the state of Indiana aforesaid, labor under some inconvenience in consequence of not having been able to hold their regular meetings at the usual place of holding circuit courts, because there is as yet no court house erected in said county; and whereas, doubts exist with some individuals as to the legality of their proceedings, in consequence of their having held their regular meetings in the clerk's office of said county; therefore, to quiet all doubts and to relieve the board doing business from any further embarrassment on this account.

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,*  
That all the acts and doings of the several boards of county commissioners within and for the county of Cass and state of Indiana aforesaid, so far as regards the particular place where their meetings may have been held, be, and the same are hereby legalized.

SEC. 2. That said board may, and it is hereby made lawful for them to hold their regular meetings in the clerk's office in said county or in any other suitable and convenient room in the county seat of said county of Cass, hereafter and until a court house shall be built in said county or until otherwise directed and required by law; and that their acts shall be equally binding and valid as though the board had held its regular meetings in the same room where the circuit courts are usually held.

**Sec. 3.** This act to take effect and be in force from and after its passage.

## CHAPTER CXIII.

## CHAPTER CXCIII.

**An act to regulate the jurisdiction of the Justices of the Peace in the county  
of Hamilton.**

[APPROVED FEBRUARY 18, 1840.]

*Be it enacted by the General Assembly of the State of Indiana, That hereafter the jurisdiction of justices of the peace in the county of Hamilton shall be regulated and governed by the 103d and 104th sections of an act entitled an act regulating the duties and jurisdiction of justices of the peace, approved February 17th, 1838.*

This act to be in force from and after its passage.

CHAPTER CXCIV.

**An act to authorize the election of a Justice of the Peace and a Constable  
in the town of New Trenton in the county of Franklin.**

[APPROVED FEBRUARY 15, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,*  
That the board doing county business in the county of Franklin is  
hereby authorized and required at their first session after the taking  
effect of this act, to order an election of an additional justice of the  
peace and a constable to reside in the town of New-Trenton in said  
county to be elected by the qualified voters of the township of White  
Water, in which said town is situated; which elections of said justice  
and constable shall be conducted in all respects according to the laws  
that now are or that may hereafter be in force regulating the elections  
of justices of the peace and constables.

SEC. 2. That if said justice of the peace shall not hold his office in said town or shall remove therefrom, his office shall thereby become vacated, and if the said constable shall fail to reside in said town he shall forfeit his office. The said justice of the peace and constable when so elected and qualified, shall have the same powers and jurisdiction as other constables in said county.

SEC. 3. All vacancies that may happen in the offices herein provided for and authorized, or in either of them, it shall be lawful to fill said vacancies of the office of justices of the peace and constables in this state.

hundred dollars as reward for the recovery of the same, on the order of the county commissioners or a justice of the peace, and the said commissioners or justice of the peace shall be entitled to the same.

## CHAPTER CXCV.

An act to authorize certain officers to reinstate certain judgments and papers which were in their possession, and have been destroyed or defaced so as to render them unintelligible.

[APPROVED FEBRUARY 22, 1840.]

Whereas, on the night of the 21st of September, 1839, the office of Martin Martindale, Esq. a justice of the peace in Wayne township in Marion county, was broken open and robbed, whereby certain papers and dockets and parts of dockets, containing judgments not settled or satisfied were destroyed: And whereas, the papers and documents of James W. Johnston, Esq. late a justice of the peace in said township, had there been temporarily deposited in consequence of the expiration of the term of service of said Johnston, and whereas he has since been re-elected to said office:

Therefore,

*Be it enacted by the General Assembly of the State of Indiana, That Martin Martindale and James W. Johnston, Esquires, justices of the peace in Wayne township in Marion county, be, and they or either of them, are hereby authorized to re-enter any and all judgments which were on their respective dockets, or reinstate any paper or papers belonging to either of said offices, which have been destroyed or defaced so as to render the same unintelligible as above named in the preamble to this bill, or that they or either of them are hereby authorized, when necessity may require it, to send for any person or persons to give any evidence or produce any paper or papers for that purpose, and when said judgments or parts of judgments, or papers, have been so entered and reinstated, they or either of them shall proceed to act upon the same as they should have done had the destruction above named not occurred.*

This act to be in force from and after its passage.

## CHAPTER CXCVI.

An act to change the name of Harvey Slocum of Jefferson county, Indiana.

[APPROVED JANUARY 18, 1840.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That the name of Harvey Slocum of the county of Jefferson, Indiana, be, and the same is hereby changed to that of Harvey Pulliam, and by*

such last mentioned name, he shall be recognized and known, and have full power to contract and be contracted with, and do all other lawful acts and things.

*Sec. 2. This act shall in no wise be so construed as to affect, alter or annul any contract, or act done, suffered or permitted by the said Harvey Pulliam, while he was known by the name of Harvey Slocum, nor so as to affect any property, real or personal, which has or may be given him, granted or released to him in any manner whatever.*

*Sec. 3. This act to be in force from and after its publication in the Republican Banner, a newspaper printed in the town of Madison, Indiana.*

## CHAPTER CXCVII.

An act to locate a state road therein named.

[APPROVED FEBRUARY 17, 1840.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That Jas. F. Wood, Wm. McKim and Paul Swaim of the counties of Randolph and Wayne, be, and they are hereby appointed commissioners to view, mark, and locate a state road, commencing at a point on the state road leading from Richmond, Wayne county, Indiana, to Fort Wayne, by way of Winchester, some four miles north of Richmond, to Spartansburgh, thence in a northerly direction on or near the Quaker trace, to intersect the state road running north and south on the east side of the counties of Jay and Adams at some suitable point, at or near the county line dividing the counties of Randolph and Jay.*

*Sec. 2. The said commissioners, or any two of them, shall meet on the first Monday in May next at the town of Spartansburgh, or some subsequent time to be agreed upon by a majority of the commissioners, and after taking an oath faithfully to discharge the duties assigned them by this act, shall proceed to view, mark, and locate the aforesaid road, and shall within thirty days after the location of the same, file a report of their proceedings in the clerks' offices of the counties in which said road is located, which report shall be recorded in the record books of the said boards doing county business in said counties.*

*Sec. 3. The boards doing county business in the counties aforesaid shall make such allowance to said commissioners as they may deem reasonable and just, out of the county treasury of any money not otherwise appropriated.*

This act to be in force from and after its passage.

### CHAPTER CXCVIII.

An act to repeal an act entitled an act to locate a state road from New Albany in Floyd county to Charlestown in Clark county, approved February 12, 1839.

[APPROVED FEBRUARY 17, 1840.]

*Be it enacted by the General Assembly of the State of Indiana, That the act approved February 12, 1839, locating a state road from New Albany in Floyd county to Charlestown in Clark county, be, and the same is hereby repealed: Provided, That the repeal of said act shall not invalidate the right of the viewers, surveyors or others employed in locating said road, to receive pay for their services agreeably to the provisions of the act so repealed.*

This act to take effect and be in force from and after its passage.

### CHAPTER CXCIX.

An act relating to the times of holding the circuit courts in the counties of Laporte, Porter and Lake, in the ninth judicial circuit.

[APPROVED FEBRUARY 7, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana, That all that part of an act entitled an act to amend an act dividing the state into judicial circuits and fixing the time for holding courts therein, and for other purposes, approved January 28, 1839, which relates to the ninth judicial circuit be, and the same is hereby repealed.*

**SEC. 2.** All laws and parts of laws repealed by the act aforesaid, so far as the same related to the ninth judicial circuit are hereby declared to be and continue in full force.

**SEC. 3.** This act to be in force from and after its passage; and it is hereby made the duty of the Secretary of state to furnish each of the clerks of the circuit courts in said circuit with a copy of this act at as early a day as practicable.

That the name of Harvey Slocum of the county of Jefferson, and by  
be, and the name is hereby changed to that of Harvey Pulliam, and by

### CHAPTER CC.

An act to repeal so much of an act entitled an act providing for a more uniform mode of doing township business in the several counties therein named as relates to the counties of Clinton, Delaware and Hancock.

[APPROVED, FEBRUARY 7, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana, That so much of an act entitled an act providing for a more uniform mode of doing township business in the several counties therein named, approved February 17, 1838, as relates to the counties of Clinton, Delaware and Hancock, be, and the same is repealed.*

**SEC. 2.** That the tax levied and collected in the several townships in the said counties of Clinton, Delaware and Hancock, under the act to which this is an amendment, shall be appropriated by the several boards doing county business in the several counties for the use of said townships from which the same was so levied and collected.

This act shall be in force from and after its passage.

### CHAPTER CCI.

An act concerning a school section in the county of Tippecanoe.

[APPROVED FEBRUARY 7, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana, That when two or more persons become the joint purchasers of any part of school section number sixteen, in congressional township number twenty-one, north of range number three west, in said county of Tippecanoe, or may be jointly interested in any part thereof, and one or more of said joint purchasers or holders of any part thereof, and his or their assignee or assignees shall have paid the principal for their said interest or part according to law, or shall continue to pay the interest on his or their portion or part of the same according to law, in proportion to his interest in said part of said section, which the school commissioner of said county is hereby required to receive and credit upon such part or portion of the joint owner or purchaser so paying the same, that then him or them, and his and their assignee or assignees so paying the said principal or continuing to pay said interest according to law, in proportion to his or their interest in said part of said section, shall hold and have the same free and clear from any*

forfeiture or penalties by reason of the non-payment of principal or interest on the residue of said part of said section, either by the original joint purchaser or purchasers, or of any person or persons, body politic or corporate, claiming by, through, or under him or them or in any other manner howsoever.

**SEC. 2.** And any joint holder or purchaser, his heirs or assigns having paid the principal and interest, on his part or portion as in the first section mentioned, shall be entitled to a deed according to law, for his part or portion, in the same manner as if he had been an individual purchaser at the first sale thereof, and shall in like manner be entitled to such deed from said school commissioner at any time on making full payment of principal and interest on his part or portion of said land, before it is due, in like manner as in other cases.

This act to be in force from and after its passage.

## CHAPTER CCHI.

An act to legalize the time of holding the sessions of the board of commissioners of the county of Marion.

[APPROVED JANUARY 22, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the time of holding the sessions of the board of commissioners, of the county of Marion, in the months of April and November in the year eighteen hundred and thirty-nine, be, and the same is hereby legalized, and that all acts done by said board of commissioners at said sessions, be as valid and effectual in law as if said sessions had been held on the day prescribed by law for the holding thereof, or had not come within the time fixed by law for the holding of the Marion circuit court.

**SEC. 2.** This act to take effect and be in force from and after its passage.

## CHAPTER CCIII.

An act to legalize certain proceedings of the board doing county business for Wabash county,

[APPROVED, FEBRUARY 15, 1840.]

Whereas, it has been represented to this General Assembly that the assessor of Wabash county for the year 1839, did assess, value and charge to persons claiming the same improvement made upon lands that had not been purchased of the general government five years; and whereas, the board doing county busines for said county, did at their September and November terms, 1839, strike from the collector's duplicate the sum of fifty-seven dollars and fifty-seven cents state tax, the amount so illegally assessed and charged as aforesaid; therefore,

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the acts of said board doing county business for Wabash county in striking from said duplicate the said sum of fifty-seven dollars and fifty-seven cents, so as aforesaid illegally assessed and charged upon said improvements upon lands before the term of five years had expired, from the time of their purchase from the United States be, and the same are hereby legalized.

This act to be in force from and after its passage.

## CHAPTER CCIV.

An act legalizing the acts and proceedings of the trustees of school district, township number six, north of range number nine west, in Sullivan county, in relation to the town of Edwardsport.

[APPROVED, FEBRUARY 13, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the acts and proceedings of the trustees of school district, township number six, north of range number nine west in Sullivan county, state of Indiana, in relation to the re-survey and record of the town of Edwardsport, which is situated in section number one, township number four, north of range number eight west, in the county of Knox and state of Indiana be, and the same are hereby legalized.

This act to take effect from and after its passage.

## CHAPTER CCV.

An act to provide for a more uniform mode of doing township business in the county of Cass.

[APPROVED, FEBRUARY 15, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,*  
That the provisions of an act entitled an act to provide for a more uniform mode of doing township business in the several counties therein named, approved February 17, 1838, be, and the same are hereby extended to the county of Cass.

This act to be in force from and after its passage.

## CHAPTER CCVI.

An act declaring Musquito creek in Harrison county a public highway.

[APPROVED FEBRUARY 24, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,*  
That Musquito creek from the widow Brown's to the Ohio river, be, and the same is hereby declared a public highway.

This act to take effect and be in force from and after its passage.

## CHAPTER CCVII.

An act to vacate part of a street in the town of Brookville.

[APPROVED JANUARY 22, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,*  
That so much of Front street in the town of Brookville, Franklin county, Indiana, as lies east of Market street, be, and the same is hereby vacated.

This act to be in force from and after its passage.

## CHAPTER CCVIII.

An act to amend an act entitled an act to attach one-fourth of township number thirty, north of range four east, to the county of Fulton.

[APPROVED, FEBRUARY 24, 1840.]

*Be it enacted by the General Assembly of the state of Indiana,* That so much of an act entitled an act to attach one-fourth of township number thirty, north of range four east, to the county of Fulton, approved February 18, 1839, as says for the purpose of organizing congressional township schools and for no other purpose whatsoever, be, and the same is hereby repealed.

This act to be in force from and after its passage.

## CHAPTER CCIX.

An act to authorize the holding of an additional term of the circuit court for the county of Washington.

[APPROVED, FEBRUARY 13, 1840.]

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana,*  
That it shall be and is hereby made the duty of the judges of the Washington circuit court, to hold annually an additional term of said court, to be convened on the second Monday in June and to continue in session three weeks, should the business therof require it.

*SEC. 2. That the grand and petit jurors shall be summoned and empanneled for said term of said court, as is provided for other terms of circuit courts, by an act entitled an act to regulate the mode of summoning and empanneling grand and petit jurors, approved January 29, 1831, except that twenty-five days previous to the said June term of said court shall be sufficient time to issue the writ provided for in section second of the above recited act.*

*SEC. 3. That there shall not be taken up or acted upon at the first term of said court herein authorized, any business that shall or may be commenced after the March term of the said Washington circuit court, to be held in the year 1840, and said business shall be proceeded with as if this act had not passed.*

**SEC. 2.** This act to take effect and be in force from and after its publication in the Indiana Journal.

**SEC. 4.** That the first June term of said circuit court shall be wholly devoted to the unfinished business remaining on docket at the close of the aforesaid March term, and which unfinished business might have been acted upon at said March term, if time had permitted.

**SEC. 5.** That after the first June term of said court, the business of said circuit courts shall be proceeded with, as is now or may hereafter be provided for by law, except the empanneling and summoning of grand and petit jurors as herein provided for.

This act to take effect and be in force so soon as a certified copy of this act shall be filed in the clerk's office of Washington county.

### CHAPTER CCX.

An act to provide for the re-appraisal of school section ins Lake and Owen counties.

[APPROVED FEBRUARY 15, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the trustees of congressional township number thirty-four, eight west, in the county of Lake, and the trustees of congressional township number nine, range four west in the county of Owen, be authorized to divide and re-appraise said school sections in the same manner as if the said school sections had never been heretofore appraised, and the said trustees shall be governed in all respects by the laws now in force on that subject.

This act to be in force from and after its passage.

### CHAPTER CCXI.

An act to vacate the town of Economy in Gibson county.

[APPROVED FEBRUARY 13, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the town of Economy in the county of Gibson, be, and the same is hereby vacated.

### CHAPTER CCXII.

An act to change the name of Mary Burroughs.

[APPROVED FEBRUARY 13, 1840.]

Be it enacted by the General Assembly of the State of Indiana, That the name of Mary Burroughs, infant daughter of John H. Burroughs, of Marion county, is hereby changed to Mary Scudder, and she shall hereafter be known by the name of Mary Scudder.

This act to be in force from and after its passage.

### CHAPTER CCXIII.

An act to provide for a more uniform mode of doing township business in the county of Tippecanoe.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the provisions of an act entitled an act to provide for a more uniform mode of doing township business in the several counties there-in named, approved February 17th, 1838 be, and the same is hereby extended to the county of Tippecanoe.

This act to be in force from and after its passage.

## CHAPTER CCXIV.

An act to change the name of the town of Paris, in Lawrence county, to that of Bryantsville.

[APPROVED FEBRUARY 18, 1840.]

*Be it enacted by the General Assembly of the State of Indiana,* That the name of the town of Paris in Lawrence county be, and it is hereby changed to that of Bryantsville, under which name the plat of said town shall be recorded in the same manner that town plats are now required to be recorded by law: *Provided, however,* that nothing in this act shall be so construed as to affect the rights, privileges, or interests of any individual, company, or corporation.

## CHAPTER CCXV.

An act concerning the tax imposed on lands of non-residents in Pike county, for the purpose of opening and repairing roads and highways.

[APPROVED FEBRUARY 22, 1840.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That no tax shall hereafter be imposed on land belonging to any person resident in the county of Pike, for the purpose of opening and repairing roads and highways in said county.

*Sec. 2.* That the supervisors in the several road districts in said county, shall cause all persons subject to work at least two days in each year, and as much oftener as said supervisors may think necessary.

This act to take effect and be in force from and after its passage.

## CHAPTER CXVI.

An act to authorize the school commissioner of the county of St. Joseph, to hold the appointment of county treasurer.

[APPROVED, FEBRUARY 24, 1840.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That hereafter the school commissioner of the county of St. Joseph, is hereby authorized to hold the appointment of county treasurer, sub-

ject to the same restrictions in such appointment, as county treasurers now are by law.

*Sec. 2.* It is hereby made the duty of the board of county commissioners of said county, after the taking effect of this act, to appoint said school commissioner, said county treasurer in the same way; and under the same law, by which said board of county commissioners have hitherto appointed said county treasurer, so far as the same may be applicable.

This act to take effect and be in force from and after its publication in the "South Bend Free Press."

## CHAPTER CCXVII.

An act relative to the three per cent. fund of Spencer county.

[APPROVED FEBRUARY 7, 1840.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That the board of commissioners of Spencer county, shall cause that portion of the three per cent. fund belonging to, and which may be received by the proper officer for the use of said county, to be equally divided among the several townships therein, and cause an equal amount of said funds, to be expended in each of said townships, as often as any portion thereof shall be received.

This act to be in force from and after its passage.

## CHAPTER CCXVIII.

An act to postpone the February term of the probate court of Putnam county, in the year 1840.

[APPROVED, JANUARY 31, 1840.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That the February term of the probate court of Putnam county, for the year 1840 be, and the same is hereby postponed until the first Monday of March, in the year 1840. And at said March term the said court shall sit nine days, if the business thereof shall so long require it.

*Sec. 2.* All process heretofore issued out of said court, or which may hereafter be issued before the taking effect of this act, returnable

at said February term, shall be taken to be returnable at said March term.

This act shall be in force from and after the filing of the same in the clerk's office of said probate court.

## CHAPTER CCXIX.

An act declaring a divorce in a certain case therein named, and for other purposes.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the marriage contract entered into and solemnized, on the first day of January in the year eighteen hundred and forty, by and between John N. Wilson and Sophia Y. Spears of the county of Marion be, and the same is hereby declared to be dissolved, the said Sophia being hereby declared to be divorced from the said John N. Wilson.

**SEC. 2.** Be it further enacted, That from and after the passage of this act, the said Sophia shall be entitled to, and shall be known by her original name of Sophia Y. Spears.

This act to take effect and be in force from and after its passage.

## CHAPTER CCXX.

An act to make allowances to supervisors for extra services, in the county of Boon.

[APPROVED FEBRUARY 15, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the board doing county business in the county of Boon shall at their May term in each year, make such allowance to supervisors for such extra services, as may be just and reasonable, but in making such allowance, the board shall have special reference to the number of

hands such supervisor had under his direction: *Provided, however,* that no allowance shall be made to any supervisor until he shall have furnished said board with a complete return of his operations on the public roads and highways in his district.

**SEC. 2.** All laws and parts of laws coming within the purview of this act be, and the same are hereby repealed.

This act to take effect and be in force from and after its passage.

## CHAPTER CCXXI.

An act to authorize Campbell Dale to build a mill dam across White river.

[APPROVED FEBRUARY 22, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That Campbell Dale, of Delaware county be, and he is hereby authorized to build a mill dam across White river at the saw mill site of the said Dale, just below the feeder dam erected across the said stream in the said county of Delaware.

**SEC. 2.** Nothing in this act shall be so construed as to prevent the state of Indiana at any time hereafter from using the water of said river, in furthering the progress of the public works of Indiana.

This act to take effect from and after its passage.

## CHAPTER CCXXII.

An act to change the name of Jacob Henry Hamburg.

[APPROVED, FEBRUARY 15, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the name of Jacob Henry Hamburg, of Shelby county, Indiana, shall be, and the same is hereby changed to that of Kouradin Hamburg, and by said last mentioned name, he shall have power to contract and be contracted with, sue and be sued, plead and be impleaded, in any court of law or equity in this state, and do all other lawful acts and things.

**SEC. 2.** Nothing contained in the first section of this act, shall be so construed, as to affect, alter, or annul any contract or act done, suffered, or permitted by the said Kouradin Hamburg, while he was known by the name of Jacob Henry Hamburg, but the same shall be taken and construed in the same manner as though this act had not passed.

This act to take effect and be in force from and after its passage.

### CHAPTER CCXXIII.

An act to legalize the proceedings of certain justices of the peace in Clay county, and for other purposes.

[APPROVED FEBRUARY 15, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the appointment of constables, made by certain justices of the peace in Clay county, for the year 1839, in consequence of the failure of the people of said county to elect constables, according to the provisions of an act providing for a more uniform mode of doing township business in the several counties therein named, approved February 17, 1838, and applicable to the said county of Clay be, and the same is hereby made lawful, and the said constables are hereby authorized to retain their offices until their successors are elected and duly qualified, and all their official acts are hereby declared as good and valid as if they had been elected according to the provisions of the act aforesaid.

**SEC. 2.** In case of failure of the qualified electors of Clay county, on the first Monday in April next, or annually thereafter, to elect their township officers, according to the second section of the act aforesaid, the power of appointing the said township officers, and of filling all vacancies that may be occasioned by the death, resignation, or removal of any of the same, is hereby vested in the board doing county business.

**SEC. 3.** This act to apply to Clay county only, and to be in force from and after its passage.

### CHAPTER CCXXIV.

An act to extend the time of payment to purchasers of school lands in Monroe county.

[APPROVED FEBRUARY 7, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the time of final payment, be extended to all purchasers of the sixteenth sections of school lands in Monroe county, for an additional term of five years, at the option of the purchasers, their heirs and assigns, to all purchases made previous to the close of the year one thousand eight hundred and thirty-one.

**SEC. 2.** Any and all persons taking the benefit of this act, shall pay to the school commissioner of said county, the same rate of interest for which the said commissioner is authorized to loan the school funds of the said county.

**SEC. 3.** Nothing in this act shall be so construed as to exempt said lands, with the improvement thereon, from being bound for the final payment for the principal and interest or state and county taxes, after the expiration of ten years from and after the day of sale.

This act to take effect and be in force from and after its passage.

### CHAPTER CCXXV.

An act supplemental to an act providing for the election of three school commissioners in township number fourteen, north of range seven west, in Parke county, approved, December, 1839.

[APPROVED FEBRUARY 13, 1840.]

**SEC. 1.** Be it enacted by the General Assembly of the State of Indiana, That the three school commissioners to be elected under the provisions of an act to which this is an amendment, shall have all the power, right and duties, as is now conferred upon the school commissioners of the several counties in this state in the making of the sale of said school section, keeping books, loaning the funds arising from the sale of said school section, under the restrictions and limitations now in force in the law governing the duties of school commissioners in the several counties in this state, except as in this act specified.

**SEC. 2.** That the school section in the township aforesaid, shall not be sold until the commissioners to be elected by the people of said township shall appraise the same, and make and file said appraisement

under the general law governing the appointment of school sections, and further, that from and after the election of said three commissioners under this act, all the duties now conferred upon the trustees of said school section, shall be, and is hereby transferred to said commissioners.

**SEC. 3.** That the notice for the election of the three commissioners to be elected under the provisions of the first section of this act, to which this is an amendment, shall be given by the sheriff of said county of Parke.

**SEC. 4.** That the provisions of this act, and of the act to which this is an amendment, shall not deprive the people of said township from their portion of the surplus revenue, nor of any other school funds by any laws now in force in the state of Indiana, for the purpose of education.

**SEC. 5.** This act to be in force from and after its passage.

## CHAPTER CCXXVI.

An act to authorize the circuit court of Spencer county, to hold an additional term.

[APPROVED FEBRUARY 24, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That at the April term of the Spencer county circuit court, 1840, if in the opinion of the court the public interest of said county requires it, the court shall order the sheriff of said county, to proclaim and publish, that there will be a term of said court held in June next, commencing on the first Monday in said month, and may hold its session six judicial days, if the business require it.

**SEC. 2.** If the circuit court shall determine to hold a June term, in that event, the board doing county business in said county shall or may hold a special session to order the same number of grand and traverse jurors, to be summoned to attend said June term as are summoned for each of the other terms of said court, or the same may be ordered at the May term, and said jurors shall be summoned as in other cases is provided by law.

**SEC. 3.** This act shall be in force from and after its publication, and it shall be the duty of the secretary of state, forthwith upon the approval of this act, to transmit by mail a certified transcript thereof to the clerk of the circuit court of said county, and upon the receipt of the same by the said clerk, it shall be in full force in said county.

## CHAPTER CCXXVII.

An act concerning the estate of Benjamin F. Butts, deceased.

[APPROVED FEBRUARY 18, 1840.]

Whereas it is represented to this General Assembly that James Warman, of Clark county, being the guardian of certain minors, who are the heirs of Benjamin F. Butts, late of said county, deceased, as such guardian, has extinguished the dower and other rights claimed in, and encumbering the real estate of said deceased, now belonging to his heirs by purchase thereof, in order to advance the interest of said heirs; wherefore,

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That any court of competent jurisdiction before which the acts and doings of said guardian in the premises, may be exhibited for settlement or adjudication, agreeably in other respects to law, shall order and decree such allowance to and charges in favor of said guardian, as may be reasonable, so as to indemnify him for any advancements which he may have made, so as to improve and secure the interests and estates of said heirs in the premises, and the court shall make decree in conformity thereof, so far as it shall be made to appear to such court, that the acts and doings of said guardian shall have advanced or improved the interests of said heirs.

**SEC. 2.** All such acts and doings of said guardian, which may be so made to appear to the satisfaction of the court, are hereby declared to be as valid, as if the same were done pursuant to the direction or decree of the proper court authorizing the same to be done agreeably to the forms of law.

**SEC. 3.** This act to take effect and be in force from and after its passage.

## CHAPTER CCXXVIII.

An act to authorize the election of one additional justice of the peace in Franklin township, Washington county.

[APPROVED FEBRUARY 22, 1840.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That the board doing county business in the county of Washington, is hereby authorized and required at some term of said board, as soon as practicable after the taking effect of this act, order an election of an additional justice of the peace, who shall reside and keep his office in the town of New Philadelphia, Franklin township, in said county, to

be elected by the qualified voters of said township; which election of said justice of the peace, and whose duty in all respects shall be governed by the laws that now are, or that may hereafter be in force, regulating the elections and duties of justices of the peace in this state.

SEC. 2. That if the said justice of the peace shall fail to hold his office in said town, or remove therefrom, his office shall thereby become vacated; and all vacancies that may happen in said office, shall be filled as in other cases of vacancies of justices of the peace.

This act to take effect and be in force from and after its passage.

### CHAPTER CCXXIX.

An act fixing the time of holding the session of the board of commissioners of the county of Marion for the year 1840.

[APPROVED, FEBRUARY 24, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the residue of the regular sessions of the board of commissioners of the county of Marion, to be held in the year one thousand eight hundred and forty, shall be commenced at the times following, to wit: on the first Monday in March, third Monday in April, first Monday in September, and fourth Monday in October; and shall sit six days at each session, if the business require it.

SEC. 2. All business required to be done, and any duty required to be performed by any officer, or other person, at any of the sessions of said board of commissioners, heretofore provived to be held, shall be done and performed at the sessions thereof, held in pursuance of this act.

SEC. 3. This act to take effect and be in force from and after its passage, and shall be published in the Indiana Democrat and Journal; and it is hereby made the duty of the secretary of state, forthwith to transmit, to the clerk of said county of Marion, a certified copy of the same.

### CHAPTER CCXXX.

An act to change the name of the town of Newton to that of Rensselaer.

[APPROVED, FEBRUARY 18, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the name of the town of Newton in Jasper county, be, and the same is hereby changed to that of Rensselaer.

This act to be in force from and after its passage.

### CHAPTER CCXXXI.

**An act to authorize Stephen Barnes to build a mill dam across White river in Owen county.**

[APPROVED FEBRUARY 10, 1840.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Stephen Barnes of Owen county, in the state of Indiana, be, and he is hereby authorized to build a mill dam across White river in said state and county, opposite sections 31 and 32, town 10, north of range 3 west, or in the vicinity of the same, as the banks may suit his interest to build said dam.

SEC. 2. The said Stephen Barnes is hereby authorized to build his dam two and a half feet high, above common low water mark.

SEC. 3. The said Stephen Barnes shall be entitled to all the benefit of the writ of *ad quod damnum*, to condemn the lands necessary for his use on the banks of said White river, where he may wish to build his said mill dam, or elsewhere to promote the completion of the same.

SEC. 4. Said Stephen Barnes shall be required to construct in a suitable part of his said mill dam, a slope of at least thirty feet in width, so as to admit a free and safe passage for boats, rafts, and such other water crafts as may hereafter descend said river. *Provided,* The state reserves the right to abate said dam at any time.

SEC. 5. This act to take effect and be in force from and after its passage.

### CHAPTER CCXXXII.

An act for the relief of John Hyden of Owen county.

[APPROVED FEBRUARY 24, 1840.]

Whereas, it has been represented to the General Assembly of the state of Indiana, that John Hyden of the county of Owen in this state, undertook to build a bridge across Rattle Snake creek in said county, in accordance with a contract entered into with Stephen Barnes, a commissioner appointed by an act of the Legislature of 1834—5, to superintend the building of said bridge, out of the three per cent. fund of said county; and whereas, in the year 1839 said commissioner, Barnes, obtained a judgment against said Hyden, before one William D. Farley, Esq. a justice of the peace of said county, for

about the sum of thirty-four dollars — cents, with interest and costs, on account of said Hyden not complying strictly with hisaid contract in this, that the bridge was not long enough nor high enough by a few inches, but being strong and substantial in every other particular, and the contract, with the above slight objection, being fully complied with,

**SEC. 1.** *Therefore, be it resolved by the General Assembly of the State of Indiana,* That said Stephen Barnes, commissioner as aforesaid, be directed to enter satisfaction on said justice's docket for the full amount of said judgment and interest, exclusive of costs, and that the said commissioner, Barnes, be allowed the same sum in his settlement with the county board. *Provided,* he is charged therewith by the said board doing county business.

This act to be in force from and after its passage.

## JOINT RESOLUTIONS.

### CHAPTER CCXXXIII.

A joint resolution in relation to operations on the Wabash and Erie canal, to secure the speedy completion thereof, and for other purposes.

[APPROVED JANUARY 22, 1840.]

*Be it resolved by the General Assembly of the State of Indiana,* That it shall be the duty of the chief engineer of the state, if his services can be dispensed with in the duties of his office, if not, then the president of the board of internal improvement, or one of the members thereof, to proceed immediately to the seat of government of the state of Ohio, and in a respectful manner to urge upon the consideration of the members of the legislature of that state, the necessity of a speedy completion of the Wabash and Erie canal, from the Indiana state line to the Maumee bay, in compliance with the compacts heretofore made between the two states in relation thereto, wherein Indiana yielded to Ohio a quantity of valuable lands, and amply sufficient when sold and realized, to construct said portion of said canal; and to make known the great losses and injuries to be sustained by Indiana, should Ohio longer continue to delay the completion of her portion thereof; and further to represent the injustice done to Indiana by constructing that part of said canal lying between the Auglaize river and the Indiana line, narrower than it is constructed from said line to Fort Wayne by Indiana, and narrower than it is constructed from said Auglaize river to Lake Erie, which portion is thus far much neglected, and from present appearances, will not be completed so soon by two or three years, as the balance thereof to the lake will be finished in Ohio; and to represent that one hundred and fifty miles of this canal in Indiana, now nearly completed, and costing nearly two millions of dollars, will be comparatively unproductive and valueless until its connexion with Lake Erie is consummated by Ohio finishing her portion thereof.

*Be it resolved,* That his Excellency the Governor, be requested to forward a copy of the foregoing joint resolution to his Excellency the Governor of Ohio, with the request that he may lay the same before the legislature of that state and solicit their co-operation in effecting in both states a speedy completion of so immensely important a thoroughfare as that of the Wabash and Erie canal.

## CHAPTER CCXXXIV.

A joint resolution in relation to the claim of this state for lands to complete the Wabash and Erie canal.

[APPROVED DECEMBER 24, 1839.]

Whereas, the Congress of the United States, under an act of 2d of March, 1827, donated to the state of Indiana, an amount equal to one half of five miles in width, to aid said state in constructing a canal to connect the navigable waters of the Wabash river with those of Lake Erie; and whereas, it was reserved to the state of Indiana to determine the connecting points, and in obedience thereto, she has fixed said points at Terre Haute on the Wabash river by an act of said state, approved January 21, 1836; and whereas, the Attorney General and the Commissioner of the General Land Office, have decided the claim in favor of the state of Indiana; and whereas, the President of the United States referred the question on that subject to the last session of Congress, but too late for the proper action of that body before their adjournment; therefore,

*Be it resolved by the General Assembly of the State of Indiana, That our Senators in Congress be instructed and our Representatives requested to use all the means in their power, to procure at as early a day as practicable, a decision of the question now pending before Congress on the subject of said lands, that this state may know what course to pursue in relation to the same; and that the secretary of state be directed to forward a copy of this joint resolution to each of our senators and representatives in Congress.*

## CHAPTER CCXXXV.

A joint resolution concerning the committees of the Senate.

[APPROVED DECEMBER 5, 1839.]

*Be it resolved by the General Assembly of the State of Indiana, That so much of the joint resolution entitled a joint resolution concerning standing committees, approved February 11, 1839, as requires the Senate to elect its standing committees, and prescribing the number of each committee, be, and the same is hereby repealed.*

This joint resolution to be in force from and after its passage.

## CHAPTER CCXXXVI.

A joint resolution instructing our Senators and requesting our Representatives in Congress to procure the repeal of the duty on salt.

[APPROVED FEBRUARY 10, 1840.]

*Be it resolved by the General Assembly of the State of Indiana, That our Senators in Congress be instructed and our Representatives requested to use all the honorable means within their power to procure the passage of an act repealing the duty on salt imported into the United States, and that the Governor forward a copy of this joint resolution to each of our Senators and Representatives in Congress.*

## CHAPTER CCXXXVII.

A joint resolution in relation to the state prison.

[APPROVED FEBRUARY 24, 1840.]

*Resolved by the General Assembly of the State of Indiana, That the auditor of public accounts be authorized to dismiss the suit pending against the superintendents of the state prison and their securities, in the Marion circuit court, for rents, on their paying up all the costs of the suit.*

## CHAPTER CCXXXVIII.

A joint resolution relating to the duty of the Enrolling Clerks of the two Houses of the General Assembly.

[APPROVED DECEMBER 39, 1840.]

*Be it resolved by the General Assembly of the State of Indiana, That hereafter it shall be the duty of the enrolling clerks of the Houses of*

the General Assembly, to endorse on the front and at the bottom of any bill or joint resolution, the house in which it originated, under which he shall place his signature.

## CHAPTER CCXXXIX.

A joint resolution for the benefit of Gibson and Dubois counties.

[APPROVED FEBRUARY 18, 1840.]

*Be it resolved by the General Assembly of the State of Indiana,* That it shall be the duty of the Secretary of State, when the laws of the present General Assembly are distributed, to forward to the county of Gibson one copy of each of the first and second volumes of Blackford's Reports for the use of said county.

*Be it further resolved,* That it shall also be the duty of the Secretary of State at the same time to forward to the county of Dubois one copy of each of the first, second, and third volumes of Blackford's Reports for the use of the clerk, and one copy of the third volume of said reports for the use of the probate court of said county; also ten copies of the Revised Laws of Indiana, and a similar number of the general acts of the General Assembly of 1829, for the use of the said county of Dubois.

## CHAPTER CCXL.

A memorial and joint resolution of the General Assembly relative to the town of Indianapolis.

[APPROVED, FEBRUARY 10, 1840.]

The memorial of the General Assembly of the state of Indiana, to the Congress of the United States represents, that by virtue of a certified copy from the surveyor of the General Land Office, of the original survey of lands donated to the state for the seat of government, which was furnished at an early day, all the lands so donated except a few reservations for the use of public buildings, was laid off and sold to individuals in small lots; that by a recent accurate survey of said town and donation, said platt contains eight acres more than was donated by

Congress for the purpose aforesaid; said eight acres is a part of the west half of the south west quarter of section number three, in township number fifteen, north of range number three east, of the second principal meridian, it embraces a parallelogram on the east side of said tract was sold in small parcels in the year 1831, and large and valuable improvements have been made thereon by the purchasers. The memorial further represents that the title to said piece of land still remains in the United States, as well as the balance of said half quarter which contains twenty-four acres and seventy-three hundredths of an acre. The Congress of the United States are therefore requested to grant to the State of Indiana, all of said eight acres of land, or permit said state to enter the same at the usual price of public lands.

*Resolved by the General Assembly,* That the Governor cause a copy of this memorial to be transmitted to each of our Senators and Representatives in Congress to be laid before their respective Houses of Congress.

## CHAPTER CCXLI.

▲ joint resolution on the subject of Agriculture.

[APPROVED, FEBRUARY 24, 1840.]

Whereas, the science of agriculture is the basis of national, as well as individual wealth; and whereas, the necessity of encouraging that important branch of industry is every day becoming more apparent; and whereas, it is believed that the formation of agricultural societies would tend greatly to encourage and promote that important interest and produce uniformity and efficiency of action on the part of the agricultural community; and whereas, it is believed that the above named objects would be greatly promoted by extending the franking privilege to the president and secretaries of the several societies or associations that have been or may hereafter be formed in the several states of the Union, and by exempting from postage all papers devoted to mechanical, agricultural, or manufacturing interests: Therefore,

*Resolved by the General Assembly of the State of Indiana,* That our Senators and Representatives in Congress be requested to use all honorable exertions to procure the passage of a law extending the franking privilege to the several presidents and secretaries, of the several agricultural societies or associations that have or may become incorporated, or be found agreeable to the laws of the several states of this Union, and exempt from postage all papers and periodicals, the

columns of which are exclusively devoted to agricultural, mechanical, or manufacturing interests.

*Resolved*, That the Governor of this state be respectfully requested to transmit to a copy of the foregoing resolution to each of our Senators and Representatives in Congress.

## CHAPTER CCXLII.

A joint resolution on the subject of a certain mail route therein named.

[APPROVED, FEBRUARY 7, 1840.]

*Be it resolved by the General Assembly of the State of Indiana*, That our Senators in Congress be instructed, and our Representatives requested to use their influence in procuring the passage of a law establishing a mail route from Springville in Lawrence county, by the way of the Virginia Furnace and Stanford in Monroe county, White Hall and Spencer in Owen county, to Greencastle in Putnam county, in the state of Indiana, to Crawfordsville in Montgomery county.

*Resolved*, That the Governor be requested to transmit a copy of the foregoing resolutions to each of our Senators and Representatives in Congress.

## CHAPTER CCXLIII.

A joint resolution in relation to the public printers.

[APPROVED, FEBRUARY 24, 1840.]

*Be it resolved by the General Assembly of the state of Indiana*, That so the Secretary of State be authorized to settle with John Livingston, according to the prices offered to be done by Stacey & Williams, which bid is in the possession of the House; and also with Douglass & Noel, printers to the Senate, according to the said prices of Stacy & Williams.

## CHAPTER CCXLIV.

Preamble and joint resolutions in relation to the North-eastern boundary.

[APPROVED, FEBRUARY 24, 1840.]

Whereas, the General Assembly of the state of Ohio have adopted and caused to be laid before this General Assembly the following resolutions, to-wit: "Whereas, by the declaration of independence on the 4th of July, 1776, the United States of America became a sovereign and independent nation, with full power over the territory within her limits; and whereas, at the treaty of 1783, between the United States of America and Great Britain, the northern and north-eastern boundaries between the two governments were fairly designated and distinctly described; and whereas, the said British government has since set up claims to a part of the territory of these states, and now lying within the state of Maine; and whereas, the subjects of the British Crown have recently invaded and trespassed upon the territory of the state of Maine, and within the limits of this confederacy, and destroyed the property belonging to the state; therefore, Be it resolved by the General Assembly of the state of Ohio, That we view with united approbation the prompt and energetic action of the authorities of Maine, to protect the rights and honor, not only of their own state, but of the whole Union: Resolved, That the act of Congress conferring upon the President of the United States ample power and means to protect this nation from foreign invasion, has our full and most hearty assent: Resolved, That we highly approve the efforts made by the President of the United States, to avert from this country the calamities of war, and earnestly hope that they may be as they have been hitherto, successful; yet should a collision take place between this government and Great Britain, in the settlement of the pending dispute, Ohio tenders her whole means and resources to the authorities of this Union, in sustaining our rights and honor: Resolved, That the Governor be directed to transmit a copy of the foregoing preamble and resolutions to the President of the United States, and to the Governors of the several states." Therefore,

*Be it resolved by the General Assembly of the State of Indiana*, That we fully concur in and heartily approve of the above resolutions of the General Assembly of the state of Ohio.

*Resolved*, That while we cherish the hope that in the adjustment of the question of our national boundary, the integrity of our soil and the national honor may be preserved inviolate, without an appeal to arms, yet we will ever prefer honorable war rather than dishonorable peace.

*Resolved*, That should a collision take place between this Government and Great Britain, in the settlement of the pending dispute, Indiana tenders her whole means and resources, to the authorities of this Union in sustaining our rights and honor.

*Resolved*, That the Governor be directed to transmit a copy of the foregoing preamble and resolutions to the President of the United States, to each of our Senators and Representatives in Congress, and to the Governors of the several states.

## CHAPTER CCXLV.

A joint resolution in relation to Edward M. Beckwith.

[APPROVED JANUARY 25, 1840.]

Whereas, it appears from the report of the board of internal improvement, and other indubitable evidence, that a certain Edward M. Beckwith, late an engineer in the service of the state of Indiana, has absconded from the state, having defrauded the state in a large sum of money, and having been guilty of other gross violations in the discharge of the high and responsible trusts committed to his care; therefore,

*Be it resolved by the Senate and House of Representatives*, That the name of Edward M. Beckwith be expunged from the arches of the culverts and bridges of the public works wheresoever it may be found.

*Be it further resolved*, That the sheriffs of Jennings and Jefferson counties are requested to carry into effect the above resolution in their respective counties, and that a copy of the foregoing resolution be forwarded to each of them, and be published in the Indiana Democrat and Journal.

## CHAPTER CCXLVI.

A memorial and joint resolution of the General Assembly of the state of Indiana, asking a further appropriation for the prosecution of the public works at Michigan City.

[APPROVED FEBRUARY 10, 1840.]

*To the Honorable the Senate and House of Representatives of the United States in Congress assembled:*

The memorial of the Legislature of the state of Indiana, respectfully represents,

That from statistical information received from Lieut. P. B. N. Stockton, superintendent of public works of the United States at Michigan City and in the state of Indiana, there is now about seventeen hundred feet of pier constructed on the east and west sides of Trail creek, and extending into Lake Michigan, which pier is mainly constructed from the several appropriations of eighteen hundred and thirty-six of \$20,000, of eighteen hundred and thirty-seven, of \$30,000, and of eighteen hundred and thirty-eight of \$60,000; said pier remains unmoved by action of storm or wave; a large quantity of timber remains on hand ready for use, perhaps nearly as much as will be required upon the work the coming season, should a liberal appropriation be made by Congress; a portion of the timber is framed for a breakwater and is decaying; a dredging machine has been built which is said by the superintendent to be a good one, costing \$15,000, and is lying in the stream ready for use. The appropriations heretofore made are nearly expended.

Your memorialists would further represent, that they deem it all important that the pier should be extended further into the lake, and the breakwater constructed for the general protection of commerce. The present design is that the breakwater should be located in only eighteen feet water. We, your memorialists, think it all important that it be located in at least twenty-one feet water; and therefore hope the design will be so altered as to admit the further extension of the piers, &c. That portion of the harbour already constructed, will afford no protection or safety to shipping until a further appropriation be made for the extension of the piers, the construction of the breakwater, and the dredging out the channel of the creek now obstructed with sand.

Your memorialists would further represent, that the vast increase of business in this part of the state, requiring more vessels to be employed annually in the transportation of goods and produce and from the city, the consequent losses by shipwrecks for want of a harbor are immense.

By reference to the late annual message of his Excellency the Governor of this state, it will be seen that 272,400 bushels of grain, and 10,368 barrels of flour, besides a large amount of pork and other articles have been shipped during the present year; there have also been unshipped 1,850 tons of merchandize and 9,000 barrels of salt, and to this may be added a like amount that has been shipped and unshipped at St. Joseph in Michigan which would have been done at Michigan City, but for the want of a good harbor. And further, that within three weeks previous to the twenty-third day of November last, three vessels have been stranded in the neighborhood of Michigan City, principally laden with flour and grain, at an entire loss to the owners; and further on account of the great risk and expense of shipping and unshipping property at this place, the merchant must pay twenty-five per cent. for freight and insurance, and the farmer must take ten per cent. less than he would for his produce, if the harbor were made safe for vessels.

Your memorialists, therefore, are of opinion that general policy, the cause of humanity, and the interest of the state demand that a liberal appropriation should be made to carry out this reasonable and patriotic design. Therefore,

*Be it resolved by the General Assembly of the State of Indiana, That our Senators and Representatives in Congress be requested to procure an appropriation of one hundred thousand dollars, to be expended on the harbor at Michigan City.*

*And be it further resolved, That the Governor be requested to procure and forward a copy of the foregoing memorial to each of our Senators and Representatives in Congress as soon as practicable.*

## CHAPTER CCXLVII.

A joint resolution relative to saline and seminary lands.

[APPROVED FEBRUARY 24, 1840.]

*Resolved, by the General Assembly of the State of Indiana, That the treasurer of state be directed, if in his opinion the interests of the public require it, to appoint some suitable person as commissioner to visit the offices of the several commissioners of the saline and seminary lands, and carefully examine said books and all maps, so as to ascertain whether the sales are correctly entered—whether there are proper books kept, and carefully compare said books with all the reports made to the treasurer, and direct said commissioners as to the manner of keeping their books; also to report to the treasurer the names of each purchaser, who appears by said books to have made final payment, and the description of each tract, and amount paid, either in interest or principal; also such names of purchasers as appear not to have made final payments, and generally to make any further examinations, which the treasurer may direct. And the treasurer shall lay such information in relation to such examinations, before the next general assembly, as he may deem the public interest requires, accompanied with any suggestions that he may deem necessary in relation to the subject. The expenses of such examination to be defrayed out of the respective funds, saline and seminary.*

This joint resolution to be in force from and after its passage.

## CHAPTER CCXLVIII.

A joint resolution relative to a grant of lands for an asylum, for deaf mutes and blind persons.

[APPROVED FEBRUARY 7, 1840.]

*Resolved, by the General Assembly of the State of Indiana, That our senators in Congress be, and are hereby instructed, and our representatives requested, to use their influence to obtain a grant of land, to this state from the General Government of two townships for the construction and support of an asylum for the education of deaf mutes, and blind persons.*

*Resolved further, That the governor be requested to forward a copy of this joint resolution to each of our senators and representatives in Congress.*

## CHAPTER CCXLIX.

A joint resolution relative to the two White rivers in Indiana.

[APPROVED, FEBRUARY 15, 1840.]

Whereas, the navigation of the two White rivers is of great importance to the interior of the state of Indiana, and as the said rivers afford the only means of transporting the surplus produce of a large tract of fertile and well improved country to a market, and whereas also the state of Indiana has no funds to appropriate to the improvement of said rivers, and whereas there are large quantities of public land in the counties of Bartholomew, Monroe, Green, and other counties bordering on, and through which said rivers meander, which have been subject to entry for more than thirty years; therefore,

*Be it resolved by the General Assembly of the State of Indiana, That our senators in Congress be instructed, and our representatives be requested, to use their exertions to obtain from Congress a grant of one section of said land to each mile of the West fork of said river, from the mouth of White-lick creek in Morgan county, and of the East fork thereof, to Columbus in Bartholomew county, to their junction with the Wabash river.*

*That the governor be requested to forward a copy of this resolution to each of our senators and representatives in Congress.*

## CHAPTER CCL.

A joint resolution relative to the publication of the reports of the auditor and treasurer of state, with the general and special acts of the legislature.

[APPROVED, FEBRUARY 24, 1840.]

Whereas, the 22d section of the third article of the constitution of Indiana requires that an accurate statement of the receipts and expenditures of the public money, shall be attached to and published with the laws at every annual session of the General Assembly; and whereas, this provision of the constitution has for the last few years been neglected; therefore be it

*Resolved, by the General Assembly of the State of Indiana,* That it be, and hereby is declared to be, the special duty of the secretary of state to cause the reports made by the auditor and treasurer of state to this house and those made annually hereafter "to be attached to, and published with" the general acts of each annual session of the General Assembly.

## CHAPTER CCLI.

A joint resolution for the relief of Peter Houston.

[APPROVED, JANUARY 31, 1840.]

Whereas, it has been represented to us, that Peter Houston, of the county of Monroe, and state of Indiana, during the revolutionary war with Great Britain, rendered important services to his country as a private in General Rutherford's regiment of North Carolina militia; and also under Col. Bovard, during the battle of Romson's mill, and also while engaged in scouring the country, and espying out the situation of the armies of the British and Tories, was robbed of three hundred dollars of money, and his clothing, thus depriving him of every species of property, and encountering great dangers and difficulties in that glorious contest which terminated in the independence of the United Colonies, and gave birth to one of the best and freest governments on earth, and the said Peter Houston having never asked any compensation for his services from his country, although in indigent circumstances.

All of which facts are clearly shown to our satisfaction; therefore,

*Be it resolved by the General Assembly of the State of Indiana,* That our senators and representatives in Congress be requested to use their influence to procure an act of Congress to grant to said Peter Houston a portion of the refused lands lying east of the Indianapolis state road leading from Indianapolis to Bloomington, on the east side of Bean-

blossom creek, in the county of Monroe, and state aforesaid, which may be unentered at the time of the passage of said act, and in market twenty years, as will be a reasonable compensation for his services as aforesaid, and that the governor forward a copy of this joint resolution to each of our senators and representatives in Congress.

## CHAPTER CCLII.

A memorial and joint resolution to the Congress of the United States, on the subject of the Cumberland Road.

[APPROVED FEBRUARY 20, 1840.]

Your memorialist, the General Assembly of the State of Indiana, respectfully represents, that the failure to obtain an appropriation on the Cumberland road, at the last session of Congress, has produced great dissatisfaction with a large portion of our industrious and enterprising citizens. Without stopping to inquire into the cause of the failure of the last winter's appropriation, which so much disappointed our just expectations, and believing that you are aware of the utility and great importance of this national thoroughfare, on which the immense travel, and unparalleled emigration from the eastern and middle States, to the west, are continually passing, and on which the principal mails of four of the Western States are daily dependent; and the road, lamentable to tell, through this State, is almost impassable for a part of the year, in consequence of its partially constructed situation; and what adds more to our mortification and regret in viewing this road in its unfinished condition is, that a large quantity of rock is hauled to different points, preparatory to McAdamizing, which are lying useless and getting wasted, for the want of an additional appropriation, sufficient to place them on the road, in the manner intended, and where they would be of immense importance to the travelling community. There is likewise timber prepared to build bridges substantially, in lieu of those heretofore temporarily built, and which are now going to decay. Every consideration of economy, and a just regard to the interest of the country through which it passes, require that this road should be graded and mettled, especially where the rock is ready, and that bridges should be built, where the timber is nearly prepared, as speedily as possible.

Conscious of the rectitude of our demand in requesting and urging the early completion of this work, and firmly relying on the intention of the General Government to finish their undertaking in good faith, as far at all events, as the Mississippi river, in accordance with the compact coeval with the admission of the State of Missouri into the Union, and believing that the Cumberland road is a national work, and the national faith stands pledged for its execution; and being likewise im-

pressed with the belief, that if Congress will make an appropriation at once, sufficient to complete the road, and pay it over, from time to time, as it may be needed for the State of Indiana to prosecute the work, under the direction of her board of internal improvement, it would greatly facilitate the work and abridge the expenses thereof.

All experience proves, that public agents stationed far from responsibility, are not so faithful or efficient as those who have to discharge their duties, under the immediate inspection of those who have a control of their actions. And in saying this, we do not mean to cast the slightest reflection on any of the former agents, employed on the Cumberland road, but would most respectfully suggest the propriety of a change in the agency, believing it to be the better way.

The appropriation by Congress will, and ought, of course to be specific: And the authority of the Federal Government to place such appropriations, for such an object under the control of the state within whose limits the expenditures are to be made, cannot be doubted by any one, as it is evident that in such a case, there is a resort to no novel power, for the direction of the appropriation would remain unchanged, and no other; therefore,

*Be it resolved by the General Assembly of the State of Indiana, That our senators and representatives in Congress, be requested to urge a liberal and speedy appropriation, sufficient to complete the Cumberland road in this State, and that they cause to be laid before each branch of Congress, a copy of this memorial and joint resolution.*

*And be it further resolved, That the governor of this State be requested to transmit a copy of this memorial and joint resolution to each of our senators and representatives in Congress.*

#### SECRETARY'S OFFICE.

*INDIANA, to wit:*

I, WILLIAM J. BROWN, Secretary of State, do hereby certify, that I have compared the foregoing acts, joint resolutions and memorials, with the enrolled ones on file in my office, and have found the same to be correctly printed, with the exception of the words included in brackets, [thus] which have been inserted to aid the sense, and to supply evident omissions.

In testimony whereof I have hereunto subscribed my name at Indianapolis, this seventh day of April, in the year eighteen hundred and forty.

WM. J. BROWN,  
*Secretary of State.*

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